



Commonwealth of Virginia
Virginia Information Technologies Agency

DELL DESKTOPS, NOTEBOOKS & SERVERS

Optional Use Contract

Date: August 18, 2003

Contract #: VA-030801-DELL

Authorized User: State Agencies, Institutions, and other Public Bodies
as defined in the VPPA

Contractor: Dell Marketing, LLP
One Dell Way
RR8 MS 8707
Round Rock, TX 78682

FIN: 74-2616805

Contact Person: See Page 3

FOB: Destination

Delivery: 21 Days ARO

Term: August 15, 2003 – August 14, 2005

Payment: Net 30 days

For Additional Information, Please Contact:

Contract Compliance Information:
Mrs. T. J. Hudson
Contracts Administrator
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Technical Information:
Joe A. Parr, CPPO, VCO
Contract Officer
Phone: 804-371-5991
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Fax: 804-371-5969

NOTES: Individual Commonwealth of Virginia employees are not authorized to purchase equipment or services for their personal use from this Contract.

For updates, please visit our Website at <http://www.oas.virginia.gov>

VIRGINIA INFORMATION TECHNOLOGIES AGENCY (VITA): Prior review and approval by VITA for purchases in excess of \$100,000.00 is required for State Agencies and Institutions only.

CONTRACT # VA-030801-DELL
CONTRACT CHANGE LOG

[illegible]

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Contract Management:

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Contract officer
Phone: 804-371-5991
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Fax: 804-371-5969

DELL POINTS OF CONTACT

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Inside Sales Manager
Lisha Scott
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Dell Desktops

Base Configuration:

Network Optimized
Processor:
Chassis
CPU Speed:
Cache:
Memory:
Keyboard:
Monitors:
Video Board:
Boot Hard Drive:
Floppy Drive:
Operating System:
Mouse:
Network Adapters (NICs):
1st Removable Media:
1st Removable Speed
I/O Ports
PCI Slots
Audio Solutions:
Speakers:

GX 260

Desktop Configuration 1	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade Intel® Celeron®	Optiplex YES
Tower	Tower
1.80GHz	1.8Ghz
128K	128k
256MB DDR Non-ECC SDRAM, 1 DIMMS	256 1 dimm
PS/2 Keyboard, No Hot Keys	Ps2 Keyboard
17 inch CRT color monitor (16.0 viewable)	E772p monitor
Integrated Video	Int Video
20GB EIDE 7200RPM	20Gb 7200
1.44MB 3.5 Inch Floppy Drive	3.5 Floppy
Windows® XP	XP Pro
PS/2 2 button mouse	Ps2 Button
10/100 Ethernet	Int 10/100
CD-ROM	CDROM
24x	48x
Min of 4, with 2 in front on remainder in the back	6usb (2)front (4) back
Min of 1 open	YES
Embedded Sound Blaster	Integrated
Internal or External Audio Speaker	Internal speaker

GX 60

Desktop Configuration 2	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade Pentium® 4 Processor	Optiplex YES
Tower	Tower
2.20GHz, 533FSB	2.26 P4
256K	256k
256MB DDR Non-ECC SDRAM, 1 DIMMS	256 1 dimm
PS/2 Keyboard, No Hot Keys	Ps2 Keyboard
17 inch CRT color monitor (16.0 viewable)	E772p monitor
Integrated Video	Int Video
40GB EIDE 7200RPM	40GB 7200
1.44MB 3.5 Inch Floppy Drive	3.5 Floppy
Windows® XP	Xp Pro
PS/2 2-Button Mouse	Ps2 Button
10/100 Ethernet	Int 10/100
CD-ROM	CDROM
24x	48x
Min of 4, with 2 in front on remainder in the back	6usb (2)front (4) back
Min of 1 open	YES
Embedded Sound Internal or External Audio Speaker	Integrated Internal speaker

Table 1
Attachment "A"
Contract VA-030801-DELL

Documentation:	Resource CD contains		Resource CD contains	Resource CD
Energy Star Label:	Energy Star Label		Energy Star Label	YES
Warranty	3Yr Parts + Onsite Labor (Next Business Day)		3Yr Parts + Onsite Labor (Next Business Day)	3yr onsite Next Day
OEM	Dell		Dell	
Model #	GX 260		GX 260	
Reference	Dell		Dell	
Discount	Retail		Retail	
	25.0%		25.0%	

Table 1-2

Table 1 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Desktops

GX 260

Base Configuration:

Network Optimized
Processor:
Chassis
CPU Speed:
Cache:
Memory:
Keyboard:
Monitors:
Video Board:
Boot Hard Drive:
Floppy Drive:
Operating System:
Mouse:
Network Adapters (NICs):
1st Removable Media:
1st Removable Speed
I/O Ports
PCI Slots
Audio Solutions:
Speakers:
Documentation:
Energy Star Label:
Warranty

Desktop Configuration 3	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade	Optiplex
Pentium® 4 Processor	Yes
Tower	Tower
2.53GHz, 533FSB	2.53
512K Cache	512k
512MB DDR Non-ECC SDRAM, 1 DIMMs	512MB DDR Non-ECC SDRAM
PS/2 Keyboard, No Hot	PS2 keyboard
17 inch CRT color monitor	E772P
Integrated Video	Int video
80GB EIDE 7200RPM	80Gb 7200
1.44MB 3.5 Inch Floppy Drive	3.5 floppy
Windows® XP Professional Version with CD	XP Pro
PS/2 2-Button Mouse	Ps2 mouse
10/100 Ethernet	IN 10/100
CD-RW	CD-RW
24x	48x
Min of 4, with 2 in front on remainder in the back	6 usb 2 front 4 back
Min of 1 open	Yes
Embedded Sound Blaster Compatible	Int sound
Internal or External Audio Speaker	Internal Speaker
Resources CD contains Diagnostics and Driver	Resource CD
Energy Star Label	Yes
3Yr Parts + Onsite Labor (Next Business Day)	3 yr onsite next day

Oem
Model #
Reference

Dell
GX 260
Dell
Retail
\$ 1,273
25.0%

Discount

Dell Servers

Options Discount off Index 25.00%

List of Available Options are as follows:

Upgrade Options

Change to Requirements Shown Above

Upgrade to Pentium Processor (Specify Below)

Specify Here

Upgrade 1 Processor Speed (Specify Below)

Specify Here

Change to Small Form Factor

Change to Desktop

No Monitor Option

Upgrade to 19" CRT Monitor

Upgrade to 21" CRT Monitor

Upgrade to 15" LCD Monitor

Upgrade to 17" LCD Monitor

Upgrade to 19" LCD Monitor

Upgrade to 20" LCD Monitor

Upgrade to 384MB RAM

Upgrade to 512MB RAM

Upgrade to 640MB RAM

Upgrade to 768MB RAM

Upgrade to 1.0GB RAM

Upgrade to 1.5GB RAM

Add 56K Modem

Replace mouse with MS Intellimouse

Upgrade to 30GB Hard Drive

Upgrade to 40GB Hard Drive

Upgrade to 80GB Hard Drive

Change from Windows XP to Windows 2000

Upgrade
to CDRW
Drive

Upgrade
to DVD
Drive

Upgrade
to
DVD/CDR
W Drive

Add separate 32MB Graphics Accelerator Card

Add separate 64MB Graphics Accelerator Card

Upgrade to 10/100/1000 Card

Upgrade to External Speakers

Add UPS

Upgrade warranty to 4hr Response Time, M-F 8am-6pm

Extend warranty to 4 years

Extend warranty to 5 years

Upgrade to Performance USB Keyboard

Table 1 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Add Mouse Pad
Add Wireless Card

Table 2
Attachment "A"
Contract VA-030801-DELL

**Dell Notebooks
Configuration 1**

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options :
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

C540

Business Grade, Network Optimized	C540
Mobile Celeron™ Processor	Processor
1.60GHz	1.7 Ghz
256K	Yes
256MB SDRAM, 1 DIMMS	256MB SDRAM, 1 DIMMS
20GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	
Yes, Modular or Fixed	Yes
CD-ROM Drive	Yes
24X	Yes
14.1in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next	Yes
No Carrying Case	Yes
	5.8 lbs

OEM
Model
Reference
Discount

Dell
C540
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 2

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

OEM
Model
Reference
Discount

C640	
Business Grade, Network Optimized	C640
Mobile Pentium® 4 Processor M	Mobile Pentium® 4 Processor M
2.0GHz-M	2.0 GHz
256K	Yes
256MB DDR SDRAM, 1 DIMMS	Yes
20GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	Yes
Yes, Modular or Fixed	Yes
CD-ROM Drive	Yes
24X	14" XGA
14.1in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next Business Day)	Yes
No Carrying Case	5.8 lbs
Please Specify	
Please Specify	

Dell
C640
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 3

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

OEM
Model
Reference
Discount

C840	
Business Grade, Network Optimized	C840
Mobile Pentium® 4 Processor M	Pentium® 4
2.2GHz-M	2.2
512K	Yes
512MB, SDRAM, 1 DIMMS	Yes
30GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	Yes
Yes, Modular or Fixed	Yes
CD-RW Drive	Yes
24X	15" ULTRA
15.0in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next	Yes
No Carrying Case	7.7 lbs

Dell
C840
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 4

D600	
Laptop Type	Business Grade, Network Optimized
Processor	Intel Pentium M
CPU Speed	1.4 GHz
Cache	1MB
Memory:	512MB, SDRAM, 1 DIMMS
Hard Drive:	30GB Hard Drive, 5400 RPM
Dedicated Video Memory	None
Operating System:	Windows® XP Professional Version with
Modem:	Internal 56K Modem
Network Card	10/100 Ethernet Connector
Wireless Communications	Integrated 802.11b Wireless
Floppy Disk Drive (Yes/No, fixed/modular etc.)	Yes, Modular or Fixed
Fixed Optical Device Options	CD-RW Drive
Fixed Optical Device Speed	24X
Display:	14.0in XGA Display
Battery Type	Lithium-Ion
Minimum Battery Life	3hrs
Warranty	3Yr Parts + Onsite Labor (Next Business
Carrying Case	No Carrying Case
Weight in lbs	4.7-5.3 lbs
Other	

OEM
Model
Reference
Discount

Dell
D600
Dell Retail List
16.0%

Dell Options Pricing

Discount

16.00%

Upgrade Options

Change to Requirements Shown Above
Upgrade to Pentium Processor (<i>Specify Below</i>)
<i>Specify Here</i>
Upgrade 1 Processor Speed (<i>Specify Below</i>)
<i>Specify Here</i>
Upgrade to 384MB RAM
Upgrade to 512MB RAM
Upgrade to 768MB RAM
Upgrade to 1024MB RAM
Add 17" CRT Monitor
Add 19" CRT Monitor
Add 21" CRT Monitor
Upgrade to 30GB Harddrive
Upgrade to 40GB Harddrive
Upgrade to 60GB Harddrive
Upgrade to 802.11b Wireless LAN Card
Upgrade to 802.11b Integrated Wireless
Upgrade to CD-RW Drive
Upgrade to DVD Drive
Upgrade to DVD/CDRW Drive
Add Port Replicator
Add Docking Station
Upgrade to SXGA Display
Additional Battery (same specs as the one in base config)
Change from Windows XP to Windows 2000
Add Nylon Carrying Case
Add Leather Carrying Case
Extend warranty to 4 years
Extend standard warranty to 5 years
Upgrade Warranty 4hr Response Time, M-F 8am-6pm
Add Keyboard
Add Mouse
Add Mouse Pad
Add External Speakers

Table 3
Attachment "A"
Contract VA-030801-DELL

Dell Off-Spec Pricing

Example	OEM	Product Category	Index Used	Discount off Index (%)		Comments
	ABC Computer	Desktop, Product Line A	Web-price	59%	80%	
	Dell	Category A	Retail	8.5%	8.5%	See Word document for description
	Dell	Category H	Retail	4%	4%	See Word document for description
	Dell	Category O	Retail	same as base system	same as base	See Word document for description
	Dell	Category R	Retail	same as base system	same as base	See Word document for description
	Dell	Category S	Retail	2%	2%	See Word document for description
	Dell	Category W	Retail	2%	2%	See Word document for description
	Dell	Category X	Retail	0%	0%	See Word document for description
	Dell	Category Z	Retail	0%	0%	See Word document for description

Table 3-1

Table 4
Attachment "A"
Contract VA-030801-DELL

Dell Servers		PE 1650		PE 2650	
Base Configuration:		Server Configuration 1		Server Configuration 2	
Product Attribute		Minimum Requirements	Offeror Proposed Specs	Minimum Requirements	Offeror Proposed Specs
Number of U's		1	yes	2	yes
Chassis		Rack	yes	Rack	yes
Max # of Processors		2	yes	2	yes
Included # of Processors		1	yes	1	yes
Processor Speed		Intel Pentium III	yes	Intel Xeon, 1.8GHz	yes
L2 Cache size		512K	yes	512K	yes
Max Memory		4GB	yes	6GB	yes
Included Memory		512MB	yes	1GB	yes
# Drive Bays		2	yes	3	yes
# Drives Included		2	yes	3	yes
Hard Disk Capacity per Drive (SCSI)		18GB	yes	36GB	yes
Hard Drive Speed		10K RPM	15K RPM	10K RPM	yes
Max Internal Capacity		438 GB	yes	438 GB	730
# Externally Accessible Bays		1	yes	2	yes
Primary Controller		RAID 0, Dual	yes	RAID 5, Dual Channel	yes
Network card		Dual on board NICs,	yes	Dual on board NICs,	yes
Fixed Optical Device		CD-ROM Drive	yes	CD-ROM Drive	yes
Optical Device Speed		24X	yes	24X	yes
Number of PCI Slots		2 Total	yes	3-4 Total	yes
Remote Mgmt Card		Yes, included	yes	Yes, included	yes
Operating System		None	yes	None	yes
Deployment Rails		Included	yes	Included	yes
Warranty		3 YR Parts & Labor,	yes	3 YR Parts & Labor,	yes
OEM		Dell		Dell	
Model #		PE 1650		PE 2650	
SKU #		165113		265180	
		Dell Retail List		Dell Retail List	
Discount		25.0%		25.0%	

Table 4-1

Dell Servers

PE 6650

Base Configuration:

Product Attribute
Number of U's
Chassis
Max # of Processors
Included # of Processors
Processor Speed
L2 Cache size
Max Memory
Included Memory
Drive Bays
Drives Included
Hard Disk Capacity per Drive (SCSI)
Hard Drive Speed
Max Internal Capacity
Externally Accessible Bays
Primary Controller
Network card
Fixed Optical Device
Optical Device Speed
Number of PCI Slots
Remote Mgmt Card
Operating System
Deployment Rails
Warranty

OEM
Model #
SKU #

Discount

Server Configuration 3	
Minimum Requirements	Offeror Proposed Specs
4	yes
Rack	yes
4	yes
1	yes
Intel Xeon, 1.8GHz	Xeon 1.8GHz
1MB	yes
10GB	32GB
2GB	yes
4	yes
4	yes
36GB	yes
10K RPM	yes
584 GB	730 GB
2	yes
RAID 5, Dual Channel	yes
Dual on board NICs, at least one with	yes
CD-ROM Drive	yes
24X	yes
6 Total	8
Yes, included	yes
None	yes
Included	yes
3 YR Parts & Labor,	yes

Dell

PE 6650

665191

Dell Retail List

25.0%

Options Discount off Index

25.00%

List of Available Options are as follows:

Upgrade Options

Change to Requirements Shown Above
Change from rack to tower chassis
2nd Processor Option Kit - Same Speed
Upgrade to 1GB RAM
Upgrade to 1.5GB RAM
Upgrade to 2GB RAM
Upgrade to 3GB RAM
Upgrade to 6GB RAM
Increase each disk capacity to 36GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 73GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 146GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each drive speed to 15K RPM (quote pricing for ALL disks)
Increase each disk capacity to 36GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 73GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 146GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Remove Deployment Rails
Internal DLT Tape Drive (40 GB/80 GB)
External SDLT Tape Drive (110 GB/220 GB)
Add CDRW Drive
Add DVD Drive
Add DVD/CDRW Drive
Gigabit Network Connection
Monitor Media and Documentation
Linux Option
Upgrade Warranty 4hr Response Time, M-F 8am-6pm
Upgrade Warranty to 4hr Response Time, 7x24
Add Win 2000 Server OS
Remove Remote Management Card
Upgrade from SCSI to Fibre Channel
Add Redundant AC Power
Add UPS

Table 5
Attachment "A"
Contract VA-030801-DELL

DELL

Service	Desktop	Laptop	Server
Imaging (copying of system config from a master to other machines)	\$67.00	\$67.00	\$67.00
Asset Tagging	\$12.00	\$12.00	\$12.00
Deployment/Installation	Pricing varies with type and quantity of system, Statement of Work, and number of locations.	Pricing varies with type and quantity of system, Statement of Work, and number of locations.	Pricing varies with type and quantity of system, Statement of Work, and number of locations.
Data Transfer (from retired machine to new unit)	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.

1. Pricing for standard Deployment/Installation and Standard data transfer are listed on Dell's retail price list.
2. Dell can also provide custom pricing based upon custom services outside the standard services.
3. Minimum of 50 units for desktops and laptops and 20 units for servers for Imaging and Asset Tagging
4. Commonwealth agrees that it currently acquires these services under Dell's standard terms and conditions for services and that said terms and conditions shall continue to apply.

Table 5-1

**MASTER AGREEMENT
CONTRACT VA- 030801 - DELL
BETWEEN
THE COMMONWEALTH OF VIRGINIA
AND
DELL MARKETING L. P.**

1. SCOPE OF CONTRACT

This is an agreement (the "Agreement") between the Commonwealth of Virginia ("Commonwealth") and Dell Marketing L. P. (the "Contractor"), a Limited Partnership having its principal place of business at One Dell Way, RR8 MS 8707, Round Rock, Texas 78682. This Agreement contains the Contractual terms and conditions by which the Commonwealth and Contractor will establish a Master Contract for the use by State Agencies, Institutions, and other public bodies as defined in § 2.2-4301 of the Virginia Public Procurement Act (VPPA), and hereinafter referred to as "Authorized Users, to acquire Personal Computers (Desktops), Notebooks, and PC Servers ("Products"), Services, and Software (Software/Firmware), pursuant to the Commonwealth's Request For Proposal #2003-040, (the "RFP") and the Contractor's proposal, in response thereto.

2. INTERPRETATION OF AGREEMENT

As used in this Agreement, "software" and "software product" shall include all related materials and documentation, whether in machine-readable or printed form.

The documents comprising this Agreement, and their order of precedence in case of conflict, are: (1) this document, consisting of Terms and Conditions labeled 1 through 74, Attachment A, entitled Product Pricing and Attachment B entitled Reporting Format, Attachment C entitled Lobbying Certificate, and Attachment D entitled Dell's Terms of Sale for Personal Purchases; (2) the specific sections of the Contractor's proposal dated May 2, 2003 in response the following sections of the Commonwealth's RFP 2003-40 dated April 4, 2003 and amendments thereto: Section III. A entitled "Products and Services", Section III. C entitled "Pricing, Quality, and Servicing Requirements", and Appendices C, D, E, F, and G; (3) Contractor letter to Doug Crenshaw dated June 20, 2003, Subject: Response to Questions for RFP 2003-40: Personal Computers, Notebooks, and Servers; and (4) all executed Orders referencing this Agreement. The foregoing documents represent the complete and final agreement of the parties with respect to the subject matter of this Agreement.

If any term or condition of this Agreement is found to be illegal or unenforceable, it shall be severed, and the validity of the remaining terms and conditions shall not be affected.

Nothing in this Agreement shall be construed as an express or implied waiver of the Commonwealth's sovereign or Eleventh Amendment immunity, or as a pledge of its full faith and credit.

3. EXCLUSIVITY OF TERMS AND CONDITIONS

The Virginia Information Technologies Agency (VITA) will not sign or execute any additional contract, license or other agreement, including shrink-wrap Software, containing contractual terms and conditions as a result of this procurement. Any documents signed by persons other than the Contracts Manager, VITA, shall have no validity and the attached Terms and Conditions shall supersede all such agreements.

4. VENDORS MANUAL

This solicitation is subject to the provisions of the Commonwealth of Virginia *Vendors Manual* and any changes or revisions thereto, which are hereby incorporated into this contract in their entirety. The procedure for filing contractual claims is in section 7.19 of the *Vendors Manual*. A copy of the manual is normally available for review at the purchasing office and is accessible on the Internet at www.dgs.state.va.us/dps under "Manuals."

5. APPLICABLE LAWS AND COURTS

This solicitation and any resulting Contract shall be governed in all respects by the laws of the Commonwealth of Virginia and any litigation with respect thereto shall be brought in the courts of the Commonwealth in any major metropolitan area. The Contractor shall comply with all applicable federal, state and local laws, rules and regulations.

6. ANTI-DISCRIMINATION

By submitting their offers, offerors certify to the Commonwealth that they will conform to the provisions of the Federal Civil Rights Act of 1964, as amended, as well as the Virginia Fair Employment Contracting Act of 1975, as amended, where applicable, the Virginians With Disabilities Act, the Americans With Disabilities Act and §2.2-4311 of the Virginia Public Procurement Act. If the award is made to a faith-based organization, the organization shall not discriminate against any recipient of goods, services, or disbursements made pursuant to the Contract on the basis of the recipient's religion, religious belief, refusal to participate in a religious practice, or on the basis of race, age, color, gender or national origin and shall be subject to the same rules as other organizations that Contract with public bodies to account for the use of the funds provided; however, if the faith-based organization segregates public funds into separate accounts, only the accounts and programs funded with public funds shall be subject to audit by the public body. (Code of Virginia, § 2.2-4343.1E).

In every Contract over \$10,000 the provisions in a. and b. below apply:

- a. During the performance of this Contract, the Contractor agrees as follows:

- 1) The Contractor will not discriminate against any employee or applicant for employment because of race, religion, color, sex, national origin, age, disability, or any other basis prohibited by state law relating to discrimination in employment, except there is a bona fide occupational qualification reasonably necessary to the normal operation of the Contractor. The Contractor agrees to post in conspicuous places, available to employees and applicants for employment, notices setting forth the provisions of this nondiscrimination clause.
- 2) The Contractor, in all solicitations or advertisements for employees placed by or on behalf of the Contractor, will state that such Contractor is an equal opportunity employer.
- 3) Notices, advertisements and solicitations placed in accordance with federal law, rule or regulation shall be deemed sufficient for meeting these requirements.

b. The Contractor will include the provisions of 1. above in every subcontract or purchase order over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

7. ETHICS IN PUBLIC CONTRACTING

By submitting their offers, offerors certify that their offers are made without collusion or fraud and that they have not offered or received any kickbacks or inducements from any other offeror, supplier, manufacturer or subcontractor in connection with their offer, and that they have not conferred on any public employee having official responsibility for this procurement transaction any payment, loan, subscription, advance, deposit of money, services or anything of more than nominal value, present or promised, unless consideration of substantially equal or greater value was exchanged.

8. IMMIGRATION REFORM AND CONTROL ACT OF 1986

By submitting their offers, offerors certify that they do not and will not during the performance of this Contract employ illegal alien workers or otherwise violate the provisions of the federal Immigration Reform and Control Act of 1986.

9. DEBARMENT STATUS

By submitting their offers, offerors certify that they are not currently debarred by the Commonwealth of Virginia from submitting offers on Contracts for the type of goods and/or services covered by this solicitation, nor are they an agent of any person or entity that is currently so debarred.

10. ANTITRUST

By entering into a Contract, the Contractor agrees to consider, in the Contractor's discretion, all causes of action it may now have or hereafter acquire under the antitrust laws of the United States and the Commonwealth of Virginia, relating to the particular goods or services purchased or acquired by the Commonwealth Virginia under said Contract. For any cause of action taken herein by Contractor, the Commonwealth, at the Commonwealth discretion, may participate in any such action. In the event that Contractor desires to participate in such action, the Contractor shall not oppose the Commonwealth's request to join such action so long as the interests/ positions of the Commonwealth are not adverse to the interests/positions of the Contractor.

11. PAYMENT

a. To Prime Contractor:

- 1) Invoices for items ordered, delivered and accepted shall be submitted by the Contractor directly to the payment address shown on the purchase order/Contract. All invoices shall show the state Contract number and/or purchase order number; social security number (for individual Contractors) or the federal employer identification number (for proprietorships, partnerships, and corporations).
- 2) Any payment terms requiring payment in less than 30 days will be regarded as requiring payment 30 days after invoice or delivery, whichever occurs last. This shall not affect offers of discounts for payment in less than 30 days, however.
- 3) All goods or services provided under this Contract or purchase order, that are to be paid for with public funds, shall be billed by the Contractor at the Contract price, regardless of which public agency is being billed.
- 4) The following shall be deemed to be the date of payment: the date of postmark in all cases where payment is made by mail, or the date of offset when offset proceedings have been instituted as authorized under the Virginia Debt Collection Act.
- 5) **Unreasonable Charges.** Under certain emergency procurements and for most time and material purchases, final job costs cannot be accurately determined at the time orders are placed. In such cases, Contractors should be put on notice that final payment in full is contingent on a determination of reasonableness with respect to all invoiced charges. Charges that appear to be unreasonable will be researched and challenged, and that portion of the invoice held in abeyance until a settlement can be

reached. Upon determining that invoiced charges are not reasonable, the Commonwealth shall promptly notify the Contractor, in writing, as to those charges which it considers unreasonable and the basis for the determination. A Contractor may not institute legal action unless a settlement cannot be reached within thirty (30) days of notification. The provisions of this section do not relieve an agency of its prompt payment obligations with respect to those charges that are not in dispute (Code of Virginia, § 2.2-4363).

b. To Subcontractors:

1) A Contractor awarded a Contract under this solicitation is hereby obligated:

(a) To pay the subcontractor(s) within seven (7) days of the Contractor's receipt of payment from the Commonwealth for the proportionate share of the payment received for work performed by the subcontractor(s) under the Contract; or

(b) To notify the agency and the subcontractor(s), in writing, of the Contractor's intention to withhold payment and the reason.

2) The Contractor is obligated to pay the subcontractor(s) interest at the rate of one percent per month (unless otherwise provided under the terms of the Contract) on all amounts owed by the Contractor that remain unpaid seven (7) days following receipt of payment from the Commonwealth, except for amounts withheld as stated in (2) above. The date of mailing of any payment by U. S. Mail is deemed to be payment to the addressee. These provisions apply to each sub-tier Contractor performing under the primary Contract. A Contractor's obligation to pay an interest charge to a subcontractor may not be construed to be an obligation of the Commonwealth.

12. COMMENCEMENT OF ACCEPTANCE TESTING

The Commonwealth shall "Acceptance Test" the equipment within thirty (30) days of delivery. The "Acceptance Test" shall consist of forty-eight (48) consecutive business hours in conformance with the Contractor's technical specifications and functional descriptions as delineated herein. All "Acceptance Test" failures shall be reported to Contractor for return. Any failures not specifically identified to the Contractor within thirty (30) days shall be considered to have successfully passed the Acceptance Test.

13. REQUIRED PERFORMANCE LEVEL

To qualify for acceptance, all Equipment must concurrently perform in accordance with the technical specifications and functional descriptions, as contained or referenced in this

Agreement, calculated over a period of forty-eight (48) consecutive business hours. The Commonwealth shall not pay any charges, either beforehand or retroactively, associated with the Contractor's requirement to achieve this performance level. If any Equipment does not meet the standard of performance during the initial forty-eight (48) consecutive business hours, then, at the Commonwealth's sole discretion, the acceptance period shall continue on a day-to-day basis until Equipment meets the standard of performance for forty-eight (48) consecutive business hours.

Should it be necessary, the Commonwealth may delay the start of the acceptance period, but such a delay shall not exceed thirty (30) consecutive days from the date of receipt of Equipment.

14. ACCEPTANCE

The Equipment shall be deemed accepted on the first day after successful completion of the acceptance test. Upon request, the Commonwealth shall provide written confirmation of acceptance. If the standard of performance has not been met after thirty (30) calendar days have elapsed from the start of the acceptance period, the Commonwealth may require a replacement to be provided or may avail itself of the remedies for breach.

15. ASSIGNMENT OF CONTRACT

To the fullest extent permitted by law, the parties agree that Contractor's rights under this Agreement shall not be assignable, in whole or in part, to any other party without the Commonwealth's written consent, and that any purported assignment or transfer without such consent shall be null and void. If any law limits the right of the parties to prohibit assignment or nonconsensual assignments, the effective date of the assignment shall be as follows. The Contractor shall give the purchasing office prompt written notice of the assignment, signed by authorized representatives of both the Contractor and the assignee. This written notice shall be on the Virginia Information Technologies Agency's (VITA's) "Assignment Notice / Payment Instruction" form and shall provide all information requested on that form. Copies of the form may be obtained from the Contracts Manager VITA. Upon VITA's acknowledgment of receipt of the properly executed form, the Assignee shall notify the using agency or agencies receiving the goods or services of the assignment and shall supply the using agency with a copy of the properly executed form. Any payments made prior to the using agency's receipt of such notification and form shall not be covered by this assignment.

In the event the Commonwealth receives any notice from a third party claiming to be an assignee of any rights of the Contractor under this Agreement, Contractor agrees that payment or other performance in respect of those rights shall not be due until at least thirty days after the Commonwealth's receipt of the notice required by the above paragraph or receipt of a similarly executed notice confirming the absence or revocation of the purported assignment. The Office of Acquisition Services, VITA shall promptly notify the Contractor of any assignment notice it receives.

16. MODIFICATIONS

This Contract may be modified in accordance with 2.2-4309 of the Code of Virginia. The representatives noted below may only make such modifications. No modifications to this Contract shall be effective unless it is in writing and signed by the duly authorized representative of both parties. No term or provision hereof shall be deemed waived and no breach excused unless such waiver or consent to breach is in writing.

Any Contract issued on a firm fixed price basis may not be increased more than twenty five percent (25%) or \$50,000.00 whichever is greater, without the approval of the Governor of the Commonwealth of Virginia or his authorized designee.

Authorized Representatives:

Commonwealth of Virginia:
Contracts Manager, VITA

Contractor:
Kay Schnuriger, Contracts Manager

17. TAXES

Sales to the Commonwealth of Virginia are normally exempt from State sales tax. State sales and use tax certificates of exemption, Form ST-12, will be issued upon request, and can be obtained online at <http://www.tax.state.va.us/>. Deliveries against this Contract shall usually be free of Federal excise and transportation taxes. The Commonwealth's excise tax exemption registration number is 54-73-0076K.

18. USE OF BRAND NAMES

Unless otherwise provided in this solicitation, the name of a certain brand, make or manufacturer does not restrict offerors to the specific brand, make or manufacturer named, but conveys the general style, type, character, and quality of the article desired. Any article that the public body, in its sole discretion, determines to be the equal of that specified, considering quality, workmanship, economy of operation, and suitability for the purpose intended, shall be accepted. The offeror is responsible to clearly specify and identify the product being offered and to provide sufficient descriptive literature, catalog cuts and technical detail to enable the Commonwealth to determine if the product offered meets the requirements of the solicitation. This is required even if offering the exact brand, make or manufacturer specified.

19. TRANSPORTATION AND PACKAGING

By submitting their offer, all offerors certify and warrant that the price offered for F.O.B. destination includes only the actual freight rate costs at the lowest and best available rate to the Contractor and is based upon the actual weight of the goods to be shipped. Except as otherwise specified herein, standard commercial packaging, packing and shipping

containers shall be used. All shipping containers shall be legibly marked or labeled on the outside with purchase order number, commodity description, and quantity.

20. INSURANCE

By signing and submitting a proposal under this solicitation, the offeror certifies that if awarded the Contract, it will have the following insurance coverage at the time the Contract is awarded. For construction Contracts, if any subcontractors are involved, the subcontractor will have workers' compensation insurance in accordance with §§ 2.2-4332 and 65.2-800 et seq. of the Code of Virginia. The offeror further certifies that the Contractor and any subcontractors will maintain these insurance coverage during the entire term of the Contract and that all insurance coverage will be provided by insurance companies authorized to sell insurance in Virginia by the Virginia State Corporation Commission.

INSURANCE COVERAGES AND LIMITS REQUIRED:

- a. Worker's Compensation - Statutory requirements and benefits.
- b. Employers Liability - \$100,000.
- c. Commercial General Liability - \$500,000 combined single limit. Commercial General Liability is to include Premises/Operations Liability, Products and Completed Operations Coverage, and Independent Contractor's Liability or Owner's and Contractor's Protective Liability. The Commonwealth of Virginia must be named as an additional insured when requiring a Contractor to obtain Commercial General Liability coverage.

21. DRUG-FREE WORKPLACE

During the performance of this Contract, the Contractor agrees to (i) provide a drug-free workplace for the Contractor's employees; (ii) post in conspicuous places, available to employees and applicants for employment, a statement notifying employees that the unlawful manufacture, sale, distribution, dispensation, possession, or use of a controlled substance or marijuana is prohibited in the Contractor's workplace and specifying the actions that will be taken against employees for violations of such prohibition; (iii) state in all solicitations or advertisements for employees placed by or on behalf of the Contractor that the Contractor maintains a drug-free workplace; and (iv) include the provisions of the foregoing clauses in every subcontract or purchase order of over \$10,000, so that the provisions will be binding upon each subcontractor or vendor.

For the purposes of this section, "drug-free workplace" means a site for the performance of work done in connection with a specific Contract awarded to a Contractor, the employees of whom are prohibited from engaging in the unlawful manufacture, sale, distribution, dispensation, possession or use of any controlled substance or marijuana during the performance of the Contract.

22. NONDISCRIMINATION OF CONTRACTORS

An offeror, or Contractor shall not be discriminated against in the solicitation or award of this Contract because of race, religion, color, sex, national origin, age, or disability or against faith-based organizations. If the award of this Contract is made to a faith-based organization and an individual, who applies for or receives goods, services, or disbursements provided pursuant to this Contract objects to the religious character of the faith-based organization from which the individual receives or would receive the goods, services, or disbursements, the public body shall offer the individual, within a reasonable period of time after the date of his objection, access to equivalent goods, services, or disbursements from an alternative provider.

23. eVA BUSINESS-TO-GOVERNMENT VENDOR REGISTRATION

The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

All vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution either through the eVA Basic Vendor Registration Service or eVA Premium Vendor Registration Service, and complete the Ariba Commerce Services Network registration.

Vendors are strongly encouraged to register prior to submitting a bid or offer. Failure to register will result in the bid being found non-responsive and rejected. All vendors must register in both the eVA and the Ariba Commerce Services Network Vendor Registration Systems.

a. eVA Basic Vendor Registration Service: \$25 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Basic Vendor Registration Service includes electronic order receipt, vendor catalog posting, on-line registration, and electronic bidding, as they become available.

b. eVA Premium Vendor Registration Service: \$200 Annual Fee plus a Transaction Fee of 1% per order received. The maximum transaction fee is \$500 per order. eVA Premium Vendor Registration Service includes all benefits of the eVA Basic Vendor Registration Service plus automatic email or fax notification of solicitations and amendments, and ability to research historical procurement data, as they become available.

Effective until July 1, 2003, the Commonwealth will direct AMS not to invoice for the 1% transaction fee for orders issued during the period July 1, 2002, through June 30,

2003, to allow additional time for vendors to become electronically enabled. AMS will continue to invoice for transaction fees accrued prior to July 1, 2002. To enable vendors to analyze the future impact of transaction fees, AMS will issue "no pay" invoices for transaction fees that would normally accrue during the period of July 1, 2002, through June 30, 2003. For contracts that extend beyond June 30, 2003, contractors may request price adjustments to incorporate the eVA transaction fee, as provided in the Price Escalation/De-escalation clause in the Terms and Conditions of the contract.

c. Ariba Commerce Services Network Registration. The Ariba Commerce Services Network (ACSN) registration is required and provides the tool used to transmit information electronically between state agencies and vendors. There is no additional fee for this service.

24. eVA BUSINESS-TO-GOVERNMENT CONTRACTS

The eVA Internet electronic procurement solution, web site portal www.eva.state.va.us, streamlines and automates government purchasing activities in the Commonwealth. The portal is the gateway for vendors to conduct business with state agencies and public bodies.

Failure to comply with the requirements in a. and b. below will be just cause for the Commonwealth to reject your bid/offer or terminate this contract for default.

Vendors desiring to provide goods and/or services to the Commonwealth shall participate in the eVA Internet e-procurement solution and agree to comply with the following:

- a. Submit a fully executed American Management Systems, Inc., (AMS) Trading Partner Agreement, a copy of which can be accessed and downloaded from www.eva.state.va.us. AMS is the Commonwealth's service provider to implement and host the eVA e-procurement solution.
- b. Provide an electronic catalog (price list) for items awarded under a term contract. The format of this electronic catalog shall conform to the eVA Catalog Interchange Format (CIF) Specification that can be accessed and downloaded from www.eva.state.va.us.

25. BREACH

The Contractor shall be deemed in breach of this Agreement if the Contractor (a) fails to make any Product or Service ready for acceptance testing by the specified delivery date; (b) repeatedly fails to respond to requests for maintenance or other required service within the time limits set forth in this Agreement; (c) fails to comply with any other term of this Agreement and fails to cure such noncompliance within thirty (30) days (or such greater period as is acceptable to the Commonwealth) following Contractor's receipt of a Show Cause Notice identifying such noncompliance; or (d) fails to provide a written

response to the Commonwealth's Show Cause Notice within ten days after receiving same.

The Contractor shall not be in breach of this Agreement if its default was due to causes beyond the reasonable control of, and occurred without any fault or negligence on the part of, both the Contractor and its subcontractors. Such causes may include, but are not restricted to, acts of God or of the public enemy, acts of the Commonwealth in either its sovereign or Contractual capacity, fires, floods, epidemics, quarantine restrictions, strikes, freight embargoes, and unusually severe weather.

In the event of breach, in addition to any other remedies provided by law, the Commonwealth may cancel its obligations with respect to any or all unaccepted Products or Services. All costs for de-installation and return of Products shall be borne by the Contractor. In no event shall any failure by the Commonwealth to exercise any remedy available to it be construed as a waiver of or consent to any breach.

26. CONTRACTOR COMMITMENTS, WARRANTIES AND REPRESENTATIONS

Any commitment made by the Contractor within the scope of this Contract shall be binding upon Contractor. For the purposes of this Contract, a commitment by the Contractor includes:

- a. Prices and options committed to remain in force over a specified period(s) of time;
- b. Any written warranty or representation made by the Contractor in this solicitation as to hardware or software performance, or other physical design or functional characteristics of that which is offered.

27. DELIVERY DATE

The Contractor shall deliver the Products, and Software ready for testing within twenty-one (21) days After Receipt of the Order (ARO). If delivery of all Products and Software is not completed within the time specified, the Commonwealth may cancel the Order without further obligation. The Commonwealth may postpone any delivery date by notifying the Contractor at least seven (7) days prior to the delivery date. However, the delivery date shall not be postponed more than a total of thirty (30) days.

28. RISK OF LOSS OR DAMAGE

The Contractor shall have the risk of loss or damage to all equipment until properly delivered to the Authorized User.

29. PRIME CONTRACTOR SPONSORED PRODUCT PROMOTIONS

The Prime Contractor, at his/her discretion, is allowed to sponsor product / Service promotions during the Contract term or any extensions thereof under the following conditions:

- 1) Prime Contractor is required to provide in writing to VITA, at least 5 days prior to the promotion, the dates of the promotion or the duration of the promotion to include the commencement date and the ending date; the acceptable writing may be e-mail, or correspondence via USPS or other, and
- 2) Prime Contractor is required to identify in writing, the exact products / services covered in the promotion, and
- 3) Prime Contractor is required to identify in writing, the pricing during the promotion or the percentage discount, and
- 4) All Prime Contractor Sponsored Product / Service Promotions are required to be available to all Authorized Users of the Contract, should the Prime Contractor request a promotion that would be limiting, either through product configuration or quantities of products, the Commonwealth at its discretion, will not provide a written agreement. Both parties agree that promotions shall not target any one Authorized User, or a few Authorized Users, and
- 5) All Prime Contractor sponsored Product / Service Promotions shall be mutually agreed to in writing, and Prime Contractor shall be in breach of the Agreement in the absence of a writing from both parties; the writing may be e-mail or correspondence via USPS or other, and
- 6) In any instance of conflict between this clause, "Prime Contractor Sponsored Product / Service Promotions" and the Agreement, this clause shall take precedence. And
- 7) In any event wherein the Prime Contractor proposes prices that are different than the Contract prices to any Authorized User, without first obtaining mutual agreement in the format as identified herein, the Prime Contractor shall be in breach of the Agreement and the Commonwealth shall have all remedies available under Contract and law. And
- 8) The Commonwealth, at its discretion, may assist in advertising the promotion. This assistance will consist of advertising space on its (Commonwealth's) various web sites, or other assistance at its (Commonwealth's) discretion.

30. EQUIPMENT CONDITION

All Equipment to be supplied by Contractor shall be new Equipment

31. AVAILABILITY OF EQUIPMENT AND SOFTWARE

The Contractor represents and warrants that all Products were formally announced for marketing purposes before execution of this Agreement or, in the case of subsequent Orders, before execution of such Orders.

32. PATENT/COPYRIGHT PROTECTION

Contractor, at its own expense, shall defend any suit brought against the Commonwealth for the infringement of patents, copyrights or trade secrets enforceable in the United States if the claim of infringement is alleged to relate to or arise from any equipment, software, materials or information prepared, developed or delivered in connection with performance of this Agreement. In such suit, Contractor shall indemnify the Commonwealth, its agents, officers and employees for any loss, liability or expense incurred as a result of such suit.

The purchasing agency shall notify the Contractor of such suit within a reasonable time after learning of it and shall give the Contractor the full right and opportunity to conduct the defense of the suit, subject however to the requirements of Section 2.2-510 and Section 2.2-514 of the Code of Virginia or any successor statute. If principles of governmental or public law are involved, the Commonwealth may, at its option and expense, participate in the defense of the suit.

The Contractor shall not be required to indemnify the Commonwealth for liability arising solely out of the Commonwealth's own specifications or design or solely from the combination of equipment or software furnished hereunder with any equipment or software not supplied by the Contractor.

If, any Product or Service becomes, or in the Contractor's opinion, is likely to become, the subject of a claim of infringement, Contractor may, at its option, provide non-infringing substitutes that are satisfactory to the Commonwealth, or at Contractor's option and expense, may obtain the right for the Commonwealth to continue the use of such Product or Service.

If the equipment or software acquired by the Commonwealth is prevented to be used by the Commonwealth either by permanent injunction relating to a covered claim or by Contractor's failure to procure the right for the Commonwealth to continue using the software, the Contractor agrees to take back the infringing equipment, software, materials or information and refund the non-depreciated amount of the equipment or software. This obligation is in addition to the obligations cited in the first four subparagraphs above.

33. NON-APPROPRIATION

All funds for payment of equipment, software or services ordered under this Contract are subject to the availability of legislative appropriation for this purpose. In the event of non-appropriation of funds by the Legislature for the items under this Contract, the Commonwealth will terminate this Contract for those goods or services for which funds have not been appropriated. Written notice will be provided to the Contractor as soon as possible after legislative action is completed.

If any purchases are to be supported by federal funding, and such funding is not made available, the Commonwealth may terminate this Contract for goods or services dependent on such federal funds without further obligation.

34. HEADINGS NOT CONTROLLING

Headings used in this Contract are for reference purposes only and shall not be considered to be a substantive part of this Contract.

35. TITLE TO EQUIPMENT

Clear and unrestricted title to all equipment purchased under this Agreement shall pass to the Commonwealth upon successful Acceptance.

36. PRICE PROTECTION/ADJUSTMENTS

The State will not pay any additional costs above those costs provided for in the Schedule identified herein. In no event may the amount of any Contract, without adequate consideration, be increased for any purpose.

Any price decrease effectuated during the Contract period by reason of market change shall be passed on to the Commonwealth of Virginia. This decrease will be effective on the date the price decrease is announced to the general public.

37. TERM

This Agreement shall take effect on the date of its final execution by both parties, and shall continue in full force for two (2) years, "initial Term". The Commonwealth at its sole discretion may extend this Agreement for three (3) additional one (1) year periods. The Commonwealth will issue a written notification to the Contractor stating the extension period, 30 days prior to the expiration of any current Term.

38. INVENTIONS AND COPYRIGHTS

The Contractor is prohibited from copyrighting any papers, reports, forms or other materials, and from obtaining any patent on any invention or other discovery resulting solely from its performance under the terms and conditions of this Contract.

39. CONTRACTUAL RECORDS

All Contractual books, records and other documents related to matters under this Contract shall be made available by Contractor to the State and its designated agents for a period of five (5) years after final payment for purposes of audit and examination.

Contractual records are hereby further defined as this Contract and all delivery/purchase orders, invoices or correspondence directly relating to this agreement.

40. LIMITATION OF LIABILITY

To the maximum extent permitted by applicable law, the Contractor's liability under this Contract for loss or damages to government property caused by use of any defective or deficient supplies, products, equipment and/or services delivered under this Contract shall not exceed two times the amount of money paid to the Contractor under this Contract during the twelve month period preceding the event or circumstance giving rise to such liability. The Contractor will not be liable under this Contract for any indirect, incidental, special or consequential damages, or damages from loss of profits, revenue, data or use of the supplies, equipment and/or services delivered under this Contract. The above limitation of liability is per incident. The limitation and exclusion of damages in the foregoing sentences will not apply, however, to liability arising from: (a) personal injury or death; (b) defect or deficiency caused by willful misconduct or negligence on the part of the Contractor; or (c) circumstances where the Contract expressly provides a right to damages, indemnification or reimbursement.

41. SITE PREPARATION

a. Equipment environmental specifications, if required, for the equipment to be delivered under this Contract shall be furnished in writing by the Contractor upon award. These specifications shall be in such detail to ensure that the equipment to be installed shall operate efficiently from the point of view of environment.

b. The State shall prepare the site at its own expense and in accordance with the equipment environmental specifications provided by the Contractor.

42. SUPPLIES

Authorized charges do not include operational supplies (e.g. paper, tape, etc.) unless such supplies are specifically identified in the Schedule. All supplies used by the State shall conform to the Contractor's published specifications provided to State at time of equipment installation. The State reserves the right to acquire such supplies from any Contractor of its choice.

43. TERMINATION FOR CONVENIENCE

The Commonwealth may terminate this Contract in whole or in part, for Convenience at any time by submitting to the Contractor, a writing, sixty (60) days prior to the date of termination. The Commonwealth shall be obligated for all outstanding Orders, as per Contract, subsequent to this termination. The Commonwealth shall not be obligated for any other costs in the event of Termination for Convenience.

44. FAILURE TO DELIVER

In the event the Contractor fails for any reason to deliver in a timely manner or according to Contract terms the items set forth in the Schedule, the Commonwealth, at its own discretion, may give Contractor oral or written notice of such breach. Once notice by State is sent or given, State may immediately procure the items from another source. Once State has effected a purchase from an alternate source (in accordance with the Virginia Public Procurement Act) the parties agree that the State may charge-back Contractor, in which case Contractor agrees to reimburse State for any difference in cost between the original Contract price and the State's cost to cover from the alternate source. In no event shall State be held to pay Contractor any costs incurred by Contractor, including but not limited to ordering, marketing, manufacturing, or delivering the item(s) which are subject of the State's notice of breach. This remedy is in addition to and not in lieu of any other remedy the Commonwealth may have under this agreement and the laws of the Commonwealth of Virginia.

45. CONTRACTUAL DISPUTES

In accordance with Section 2.2-4363 of the Code of Virginia, Contractual claims, whether for money or other relief, shall be submitted in writing to the purchasing agency no later than sixty (60) days after final payment; however, written notice of the Contractor's intention to file such claim must be given to such agency at the time of the occurrence or beginning of the work upon which the claim is based. Tendency of claims shall not delay payment of amounts agreed due in the final payment. The purchasing agency shall render a final decision in writing within thirty (30) days after its receipt of the Contractor's written claim.

The Contractor may not invoke any available administrative procedure under Section 2.2-4365 of the Code of Virginia nor institute legal action prior to receipt of the purchasing agency's decision on the claim, unless that agency fails to render its decision within thirty (30) days. The decision of the purchasing agency shall be final and conclusive unless the Contractor, within six (6) months of the date of the final decision on the claim, invokes appropriate action under Section 2.2-4364, Code of Virginia or the administrative procedure authorized by Section 2.2-4365, Code of Virginia.

The Virginia Information Technologies Agency, its officers, agents and employees, including, without limitation, the Contracts Manager, are executing this Agreement and any Orders issued hereunder, solely in its or their statutory and regulatory capacities as agent for the Commonwealth agency purchasing and receiving the goods or services identified in the Appendices to this Agreement or on the subsequent Order in question and need not be joined as a party to any dispute that may arise there under.

In the event of any breach by the Commonwealth, Contractor's remedies shall be limited to claims for damages and Prompt Payment Act interest and, if available and warranted, equitable relief, all such claims to be processed pursuant to this Section. In no event shall

Contractor's remedies include the right to terminate any license or support services hereunder..

46. CREDITS

Any credits due the State under the terms of this Contract may be applied against Contractor's invoices to the respective Authorized User with appropriate information attached.

47. TITLE (SOFTWARE/FIRMWARE)

The Contractor represents and warrants that it is the sole owner of the software/firmware product or, if not the owner, has received all proper authorizations from the owner to license the software/firmware product, and has the full right and power to grant the rights contained in this Contract. Contractor further warrants and represents that the software/firmware product is of original development, and that the package and its use will not violate or infringe upon any patent, copyright, trade secret or other property right of any other person.

48. TERM OF LICENSE

All licenses granted under this Agreement are purchased on a non-exclusive, irrevocable perpetual license basis and shall commence upon the acceptance of the software Product by the Commonwealth. Notwithstanding the foregoing, the Commonwealth may terminate the license at anytime. All licenses granted to the Commonwealth are for the use of the software Product at the Commonwealth's computing facilities at the sites identified in any executed Attachment or Order referencing this Agreement. This license is perpetual and in no event shall Contractor's remedies for any breach of this Agreement include the right to terminate any license or support services hereunder.

49. CONTRACTOR'S WARRANTY POINT-OF-CONTACT

The Contractor shall provide the Commonwealth with designated points-of-contact and make arrangements to enable its Warranty representative to receive such notification or other continuous telephone coverage to permit the Commonwealth to make such contact.

50. WARRANTY AGAINST SHUTDOWN DEVICES

Contractor warrants that the Products provided under this Agreement shall not contain any lock, counter, CPU reference, virus, worm or other device capable of halting operations or erasing or altering data programs. Contractor further warrants that neither the Contractor, nor its agents, employees or subcontractors shall insert any such device after execution of this Agreement.

51. PERIODIC PROGRESS REPORTS/INVOICES

For Contracts requiring the submission of periodic Contract performance progress reports or program status reports, the offeror will include a section on involvement of small businesses and business owned by women and minorities. This section will specify the actual dollars Contracted to-date with such businesses, actual dollars expended to-date with such businesses and the total dollars planned to be contracted for with such businesses on this Contract. This information shall be provided separately for small businesses, minority-owned businesses and women-owned businesses.

If the Contract does not require the submission of periodic progress reports, the offeror will provide the above required information on actual involvement of small businesses and businesses owned by minorities and women as part of their periodic invoices.

52. FINAL ACTUAL INVOLVEMENT REPORT

The Contractor will submit, prior to completion or at completion of the Contract and subject to final payment, a report on the actual dollars spent with small businesses and businesses owned by women and minorities during the performance of the Contract. At a minimum, this report shall include for each firm Contracted with and for each business class (i.e. small, minority-owned, women-owned) the total actual dollars spent on this Contract, the planned involvement of the firm and business class as specified in the proposal, and the actual percent of the total estimated Contract value.

53. BUY OUTS – THIRD PARTY ACQUISITION

Contractor shall promptly notify the VITA Contracts Manager in the event that the intellectual property in or business associated with any Product or Service covered by this Agreement is acquired from the Contractor by a third party or in the event the Contractor or substantially all of its assets is acquired by a third party.

The terms and conditions of this Agreement including but not limited to the license rights and related services shall not be affected in such event identified above even if the successor or assignee already has an agreement with the Commonwealth covering products and services of the type covered by this Agreement. The Contractor's responsibilities under this Agreement shall not be released by such acquisition. In addition, prior to any acquisition, Contractor shall obtain for the Commonwealth's benefit the assignee's agreement to fully perform this Agreement.

The successor or assignee, by taking any benefit, including acceptance of payment, under this Agreement ratifies this Agreement.

The failure of any successor or assignee of the Contractor to acknowledge its obligation to adhere to the terms and conditions of this Agreement shall constitute a breach of this

Agreement for which the successor or assignee and the original Contractor shall be liable and subject to debarment.

54. ORDERS

Authorized Users of this Contract may order Products and Software from this Contract by one of the following Order methods:

- A. Purchase Order: An official Purchase Order form issued by an Authorized User.
- B. Delivery Order (DO): A DO issued by the Office of Acquisition Services, VITA.
- C. EVA: eVA is the Commonwealth's total e-procurement solution. Contractor shall accept any and all orders issued through eVA.
- D. Charge/Credit Card:
 - 1) Any order/payment transaction processed through the Commonwealth's contract with American Express (AMEX). Each order must not exceed \$5,000, or the then current charge card limit. Payment will be made by AMEX to Contractor within three (3) business days.
 - 2) Any other order/payment charge or credit card process, such as AMEX, MASTERCARD, or VISA under contract for use by an Authorized User.

This ordering authority is limited to issuing orders for the Products/Software available under this Agreement. Under no circumstances shall any Authorized User of the Commonwealth have the authority to modify this Agreement.

Contractor acknowledges that the forgoing is not limited to preclude the Commonwealth from issuing Orders against subject Contract as it so chooses.

55. INVOICING

The Contractor shall remit each invoice to the ordering entity, or Authorized User. The Contractor shall issue invoices, identifying at a minimum, the components listed below.

- a. manufacturer's product number
- b. product description
- c. price per unit
- d. quantities of merchandise
- e. extended price

- f. date ordered

56.. COMMONWEALTH'S RIGHTS TO COMPUTER SOFTWARE

Notwithstanding anything to the contrary in this Agreement, the Commonwealth shall have:

- a. Unlimited use of the Software Products on the machines for which it is acquired and on any replacement equipment;
- b. Use of such Software Products with a backup system if the system(s) for which it was acquired is for any reason, inoperative or during an emergency, or the performance of engineering changes in features or model;
- c. The right to use such Software Products at any Commonwealth installation to which the machine(s) may be transferred by the Commonwealth;
- d. The right to copy such software for safekeeping or backup purposes;
- e. The right to modify such Software Product or combine it with other programs or material at the Commonwealth's risk; and
- f. The Commonwealth shall have the right to reproduce any and all physical documentation supplied under the terms of this Agreement, provided, however, that such reproduction shall be for the sole use of the Commonwealth and shall be subject to the same restrictions or use and disclosure as are contained elsewhere in this Agreement.

Nothing contained herein shall be construed to restrict or limit the Commonwealth's rights to use any technical data that the Commonwealth may already possess or acquire under proper authorization from other sources.

57. MAINTENANCE RENEWAL

Maintenance under this agreement shall be renewed at the option of the State. The State shall issue a written notification to the Contractor for each of two (2) twelve (12) month periods that maintenance services are required after the initial three (3) year warranty/maintenance period.

58. COMPLIANCE WITH FEDERAL LOBBYING ACT

a. Contractor shall not, in connection with this Agreement, engage in any activity prohibited by 31 U.S.C.A. Section 1352 (entitled "Limitation on use of appropriated funds to influence certain Federal Contracting and financial transactions") or by the regulations issued from time to time there under (together, the "Lobbying Act"), and shall promptly perform all obligations mandated by the Lobbying Act in connection with this Agreement, including, without limitation, obtaining and delivering to the Commonwealth all necessary certifications and disclosures.

b. Contractor is hereby advised that a significant percentage of the funds used to pay Contractor's invoices under this Agreement may be federal funds. Under no

circumstances shall any provision of this Agreement be construed as requiring or requesting the Contractor to influence or attempt to influence any person identified in 31 U.S.C.A. Section 1352 (a) (1) in any matter.

c. A representative of Contractor shall sign the certification attached as Attachment "C" and deliver such certification to the Commonwealth simultaneously with the execution and delivery of this Agreement. Contractor shall have the certification signed by a representative with knowledge of the facts and shall fulfill the promises of undertakings set forth in the certification.

59. CONTRACTOR'S REPORT OF SALES

CONTRACTOR is expected to provide reporting on a monthly basis that breaks out the spend amounts by customer number and name and, as available on a best efforts, to include identification by Agency, Institution of Higher Education, Municipality and other Public Body, that is buying. Reports are expected to be provided on the 15th of each month, reporting transactions that took place in the immediately prior month, including credits and Teacher Purchase Program. At any time thereafter, as appropriate, additional reports may be agreed upon.

All reports are expected to be forwarded electronically via Email using Microsoft Excel Spreadsheet format to a list of email addresses that will be provided later. The specific types of information expected to be captured in each report are detailed in the "Reporting Format" spreadsheet, which contains 2 separate worksheets:

- COV Agency/Institution/Municipality level (refer to "COV Level" worksheet)
- System level (refer to "System Level" worksheet)

Electronic copies of reports are expected to be provided to the Commonwealth no later than 15 days following the end of each month. Late delivery or non-delivery of required reports may result in cancellation of the award and in preclusion from bidding on any future requirements.

60. SURCHARGE ADJUSTMENT

The Contractor must pay the Department of General Services (DGS), a Surcharge Adjustment (SCA) fee under this contract. The Contractor must remit the SCA within 30 days after the end of each quarterly reporting period as established in the clause entitled "Contractor's Report of Sales". The SCA equals two percent (2%) of the total quarterly sales reported. Contractor shall remit the SCA together with a copy of the Contractor's Report of Sales as delineated in the paragraph herein entitled "Contractor's Report of Sales". The SCA reimburses the Commonwealth and defrays the costs for Spend Management procurements and the administration of the subsequent awards. The SCA amount due must be paid by check with identification of "Contract number", "report amounts", and "report period", on either the check stub or other remittance material.

DGS may at its discretion, agree to an electronic funds transfer, in lieu of a check, however in the absence of an express written agreement from DGS that validates agreement, then the payment shall be made by check as described herein made payable to the Department of General Services.

If the full amount of the SCA is not paid within 30 calendar days after the end of the applicable reporting period, it shall constitute a Contract debt to the Commonwealth of Virginia, and the State may exercise all rights and remedies available under law. Failure to submit sales reports, falsification of sales reports, and or failure to pay the SCA in a timely manner may result in termination or cancellation of this Contract. Willful failure or refusal to furnish the required reports, falsification of sales reports, or failure to make timely payment of the SCA constitutes sufficient cause for terminating this Contract for default.

It is the intent of the Commonwealth to capture 2% of all sales, including but not limited to temporary reduced pricing, fire sales, one time sales, trade ins, and promotional items that have been marked down under this Contract.

61. NONVISUAL ACCESS TO TECHNOLOGY:

All information technology which, pursuant to this Agreement, is purchased or upgraded by or for the use of any State agency or institution or political subdivision of the Commonwealth (the "Technology") shall comply with the following non-visual access standards from the date of purchase or upgrade until the expiration of this Agreement:

- (i) Effective, interactive control and use of the Technology shall be readily achievable by non-visual means;
- (ii) The Technology equipped for non-visual access shall be compatible with information technology used by other individuals with whom any blind or visually impaired user of the Technology interacts;
- (iii) Non-visual access technology shall be integrated into any networks used to share communications among employees, program participants or the public; and
- (iv) The technology for non-visual access shall have the capability of providing equivalent access by non-visual means to telecommunications or other interconnected network services used by persons who are not blind or visually impaired.

Compliance with the foregoing non-visual access standards shall not be required if the head of the using agency, institution or political subdivision determines that (i) the Technology is not available with non-visual access because the essential elements of the Technology are visual and (ii) non-visual equivalence is not available.

Installation of hardware, software, or peripheral devices used for non-visual access is not required when the Technology is being used exclusively by individuals who are not blind

or visually impaired, but applications programs and underlying operating systems (including the format of the data) used for the manipulation and presentation of information shall permit the installation and effective use of non-visual access software and peripheral devices.

If requested, the Contractor must provide a detailed explanation of how compliance with the foregoing non-visual access standards is achieved and a validation of concept demonstration.

The requirements of this Paragraph shall be construed to achieve full compliance with the Information Technology Access Act, 2.2-3500 through 2.2-3504 of the Code of Virginia.

62. CONTINGENT FEE WARRANTY

The Contractor represents and warrants that the Contractor has not employed or retained any company or person, except Contractor's regular, full-time employees, for the purpose of soliciting or securing this Agreement and has not given or agreed to give anything of value to any such company or person contingent upon the award or making of this Agreement. If either or both of the foregoing representations is untrue, the Commonwealth shall have the right to terminate this Agreement without liability or, in its discretion, recover from the Contractor the full amount of any such contingent compensation.

63. PRIME CONTRACTOR RESPONSIBILITY

If the Contractor's proposal includes any goods or services to be supplied by another party, the Contractor agrees as follows:

- a. The Contractor shall act as prime contractor for the procurement and maintenance of the entire proposed configuration and shall be the sole point of contact with regard to all obligations under this Agreement.
- b. The Contractor hereby represents and warrants that the Contractor has made such other party aware of the proposed use and disposition of the other party's Product or services, and that such other party has agreed in writing that it has no objection thereto.

64. THIRD PARTY BILLING

All goods or services provided under this Contract, that are to be paid for with public funds, shall be billed by the Contractor at the contract price, regardless of which public agency is being billed.

65. OPERATIONAL RESTRICTIONS

Contractor warrants that, except as specifically agreed in writing all Products may be operated at any time for the convenience of the Commonwealth (exclusive of time

required for preventive maintenance, remedial maintenance and approved engineering changes). Without limiting the foregoing, Contractor warrants that there are no restrictions as to consecutive hours or length of personnel shifts. The Commonwealth may make the Products available to any Commonwealth agency or any other users under conditions where the Commonwealth supervises such use.

66. TYPE CONTRACT

This is an Indefinite Delivery, Indefinite Quantity requirements Master Contract.

67. INSPECTION/LATENT DEFECTS

All Equipment is subject to inspection and test. Equipment that does not meet specifications may be rejected. Failure to reject, however, does not relieve the Contractor of liability for latent or hidden defects subsequently revealed when goods are used after acceptance has occurred. If latent defects are found at any time during the term of this Agreement, the Contractor shall repair or replace the defective goods. This remedy shall be in addition to any other remedies or obligations under this Agreement or provided by law.

68. RECORDS

The Commonwealth shall maintain appropriate daily records documenting performance during the acceptance period and such records shall be conclusive for purposes of determining acceptance.

69. WARRANTY

In this Agreement "Warranty" of Equipment shall mean: (1) all labor, parts and travel necessary to keep the Equipment in good operating condition and preserve its operating efficiency in accordance with its technical specifications; and (2) Any necessary shipment and insurance costs; and (3) Any Software and Firmware maintenance costs.

Warranty of Equipment shall not include electrical work external to the Equipment, the furnishing of supplies, or adding or removing accessories, attachments, or other devices not provided under this Agreement. Warranty of Equipment also shall not include repair of damage resulting from transportation by the Commonwealth between Commonwealth sites or from accident, unless the accident is caused by negligent or intentional acts or omissions of Contractor or its agents.

The Warranty prices listed in this Agreement include all Software and Firmware maintenance costs and Equipment costs of labor, parts, travel, factory overhaul, rehabilitation, transportation and substitute Equipment as necessary. If it is necessary to remove any Equipment from a Commonwealth location where On-site warranty is specified, the Contractor shall provide substitute Equipment at the time of removal. Substitute Equipment shall be comparable to the Equipment removed. In instances where

it is necessary for the Contractor to return the Equipment to the factory, the Contractor shall be responsible for all costs of the Equipment from the time it leaves the Commonwealth site until it is returned to the Commonwealth site in good operating condition. Only new standard parts or parts equal in performance to new parts shall be used in effecting repairs. Parts that have been replaced shall become the property of the Contractor. Replacement parts installed shall become the property of the Commonwealth.

All desktops, notebooks, and servers delivered under this Agreement shall include a three (3) year On-site Warranty that commences after Equipment Acceptance, except as otherwise agreed upon as apart of an upgrade option or downgrade option on the original purchase of the product.

ALL SOFTWARE AND FIRMWARE SHALL BE CONSIDERED AN INTEGRAL COMPONENT OF THE EQUIPMENT AND THE CONTRACTOR SHALL RESPOND TO ALL REQUESTS FOR WARRANTY SERVICE FOR ANY FAILURE.

70. COMMONWEALTH'S RESPONSIBILITIES DURING WARRANTY

- a. During any term of Warranty, Commonwealth personnel shall not perform or attempt repairs to the Equipment except as authorized in writing by the Contractor.
- b. The Commonwealth shall permit access to the Equipment which is to be maintained, subject to the installation site's security regulations,
- c. The Commonwealth may provide storage space for spare parts and working space, including heat, light, ventilation, electric current and outlets, and telephones (for local calls only) for the use of maintenance personnel.
- d. The Commonwealth shall maintain the site in accordance with the equipment environmental specifications furnished by the Contractor.

71. PRINCIPAL PERIOD OF MAINTENANCE (WARRANTY)

For standard on-site warranty response, the Principal Period of Maintenance (PPM), for desktops, notebooks and servers shall be from 8:00 a.m. to 5:00 p.m., Monday through Friday, excluding State/Institutions of Education holidays. Warranties with longer PPMs may be purchased. Please note that holidays may vary across individual Institutions of Higher Education.

72. RESPONSE TIME

During the PPM, the Contractor shall respond by telephone within two (2) hours after notification from the Commonwealth of a problem for desktops, notebooks and servers. The Contractor shall complete all repairs by the end of the next working day after notification by the Commonwealth of a malfunction. Warranty options with shorter response times may be purchased.

73. EQUIPMENT REPLACEMENT DURING WARRANTY

If the Equipment provided fails to perform in accordance with technical specifications and functional descriptions contained or referenced in this Agreement and is subject to warranty response three (3) or more times during any ninety (90) day period, then the Contractor shall, upon the Commonwealth's request, replace the Equipment at no cost to the Commonwealth. The replacement Equipment shall be delivered no later than fifteen (15) working days after the Commonwealth's request is received by the Contractor.

74. DISPOSITION OF SOFTWARE

Unless otherwise instructed by the Contractor, the State shall erase, destroy or otherwise render unusable the Software Product within thirty (30) days from the date of the Commonwealth's termination of the license. A letter certifying this destruction shall be sent to the Contractor as soon as this process is completed. The Commonwealth shall have the right to retain one copy for archival purposes.

**PERSONS SIGNING THIS CONTRACT ARE AUTHORIZED
REPRESENTATIVES OF EACH PARTY TO THIS CONTRACT AND
ACKNOWLEDGE THAT EACH PARTY AGREES TO BE BOUND BY THE
TERMS AND CONDITIONS OF THE CONTRACT.**

DELL MARKETING L.P.

BY: 

NAME: Linda V. Rooden

TITLE: Director, Public Contracts & Proposals

DATE: 8/15/03

COMMONWEALTH OF VIRGINIA

BY: 

NAME: Joe A. Parr

TITLE: Tech Contracts Mgr

DATE: 8/15/03

ATTACHMENT "A"
TO
AGREEMENT VA - 030801 – DELL

PRODUCT PRICING

Attachment "A" is hereby incorporated into and made an integral part of Agreement Number VA - 030801 – DELL between Dell Marketing L. P. and the Commonwealth of Virginia. In the event of any consistency between this Attachment "A" and Agreement VA- 030801 - DELL, the provisions of Agreement VA - 030801 - DELL shall Control

PRODUCTS AND PRICING

Desktop, notebook and server products and associated pricing/discounts are delineated in Tables 1, 2, 3, 4, and 5 to this Attachment "A". Tables 1, 2, 3, 4, and 5 are incorporated herein and made an integral part of this Attachment "A" to the Agreement.

Standard Configuration Pricing Applicability

Category	Applicability
1. Future Configs Pricing	The % discount off index for each of the standard configs will be applicable to all future standard configurations that replace current ones, as was stipulated in the Section III.C of the RFP
2. Pricing Involving Standard Options	<p>The Standard Configuration discount will be applied if:</p> <ol style="list-style-type: none">1. The base SKU for the order matches the base SKU from the standard configuration list, and2. All of the other SKUs for the order are either from the standard configuration options list or are upgraded SKUs. <p>If any component in the order is a downgrade, then the entire order will be considered to be non-standard and subject to the contract floor discount. Inclusion of additional peripherals or service options (refer to exception list) will not result in a downgrade of the system: the system will still be priced as stated above while the peripherals and service options will be priced according to the applicable category discount.</p> <p>Exception list includes: Dell Support Services (excluding warranty), Deployment Services, Professional Services, Training/Certification, 3rd party Service offerings (i.e. AbsoluteTrack w/ ComputracePlus) and peripherals.</p>
3. Future Options Pricing	Future option Components that replace current ones will be priced at the same discounts off index as the current ones. Form factor and chassis options will be reviewed for discounts levels on a mutually agreed upon basis.
4. Date used for Discounted Price Calculation	The date of index pricing with respect to which discounts will be applied to arrive at discounted price will be the order date, NOT quote date

VIRGINIA PUBLIC SCHOOL TEACHER PURCHASE PROGRAM

All public school teachers' purchases are subject to the following provisions:

- a. Public school teachers may purchase Personal Computers (PCs) from this Agreement. All public school teachers' purchases shall be in compliance with the procedures set forth herein.
- b. In no instance shall the Commonwealth be responsible for any debts incurred by public school teachers or any debts incurred by their actions.
- c. All public school teacher purchases are limited to the Products identified on the Agreement, at the prices identified on the Agreement.
- d. The Contractor shall only sell Products to public school teachers who have executed the separate sales agreement as identified as Attachment D to this Agreement.
- e. The Contractor shall only sell Products to public school teachers who have completed a "Public School Teacher Certification Form" on line and obtained an Authorization Number from the Commonwealth.
- f. The Contractor is responsible for verifying the Authorization Number, on-line, prior to the sale.
- g. The Contractor shall identify to the Commonwealth, its (the Contractor's) web site that the teachers can be forwarded to, or hyperlinked to, to order on-line.
- h. In no instance shall the Commonwealth be obligated or otherwise responsible in any way for the Contractor being remiss in not obtaining an executed sales agreement as identified in Attachment D to this Agreement, and verification of an Authorization Number from the Commonwealth.
- i. Attachment D to this Agreement is attached hereto and is hereby incorporated herein and made an integral component of the Agreement.
- j. In any occurrence whereby the Contractor has identified "a prime Contractor sponsored promotion" under the Agreement, it is at the sole discretion of the Contractor to provide the same promotion to public school teachers.
- k. The Contractor shall include a separate category entitled "Public School Teacher purchases" in all of its SCA reporting.

SHIP TO BILL TO ADDRESSES

The shipping and billing addresses will be included on individual orders referencing this Contract

DELIVERY

Shipment by the Contractor shall be FOB destination. Shipping charges will be included in the discounted price of the units. No additional charges will be allowed. Units will be pre-assembled, with the exception of attaching peripheral devices. All internal cards, modems, etc. will be installed, along with appropriate drivers. Delivery will not exceed

21 days ARO. Contractor will notify the ordering Agency within 5 days if all or part of the order will not meet the delivery requirement. The ordering Authorized User, at its option, may elect to establish a new delivery date, or amend or cancel the order. Emergency/rush delivery requiring special shipping and handling will be at Authorized Users' expense (with prior approval only). Rush delivery that occurs as a result of the Contractor's error will be free of charge

RETURN OF SYSTEM

Any materials delivered in poor condition, in excess of the amount authorized by the Order or not included on the Order may, at the discretion of the Authorized Users, be returned to the Contractor's warehouse at the Contractor's expense within 30 days. Credit for returned goods will be made immediately once contractor receives returned goods.

If a system is returned to a Contractor for failure of performance, the Contractor will, at the Authorized User's discretion, refund all amounts paid to the Contractor for such system or replace the system, and the following shall apply:

1. Within twenty (20) days of written notification by the using Authorized User, the Contractor will make arrangements for the return of the system.
2. All shipping and insurance costs will be borne by the Contractor.
3. Contractor will be liable for damages to the system, unless caused by fault or negligence of the Authorized User that occur during the return process.
4. If the system is returned to the Contractor for any other reason, then the Authorized User will be responsible for all costs associated with the preparation of the system for shipping, and for shipping costs to the Contractor's nearest service location.

SELF-MAINTAINER PROGRAM

The Contractor's self-maintainer program is contained in Dell's Premier Access – Self-Maintainer Program, pages 1 and 2, and the Dell Premier Access Program Application, pages 1 through 8, which are attached hereto and is incorporated herein to this Attachment "A" to the Agreement.

TECHNOLOGY REFRESH

Both parties recognize that the marketplace changes with the continuing advance and progress of technology. It is the intent of both parties to review and assess the viability of the technology on a quarterly basis. Therefore, for the purposes of this Contract, in any instance whereby the Contractor requests a change in configurations, options, revisions, and/or updates, the Contractor will provide those in writing to the Commonwealth. Upon receipt of those changes by the Commonwealth, and acceptance, a written modification to the Contract shall be executed by both parties.

VITA POINTS OF CONTACT

Contract Compliance Information:

Mrs. T. J. Hudson, CPPB, VCO
Contracts Administrator
Phone: 804-371-5971
E-Mail: tj.hudson@vita.virginia.gov
Fax: 804-371-5969

Contract Management:

Joe A. Parr, CPPO, VCO
Contract officer
Phone: 804-371-5991
E-Mail: joe.parr@vita.virginia.gov
Fax: 804-371-5969

DELL POINTS OF CONTACT

Contract Manager: Kay Schnuriger
Phone: 800-981-3355, ext. 83263
E-Mail: Kay_Schnuriger@dell.com
Fax: 512-283-9092

State and Local Government Account Team:

Inside Number 800-981-3355
Inside Fax Number 800-433-9527
Service & Support 800-234-1490
Major Account Manager: Bruce Wine
Phone: 804-897-5372
E-Mail: Bruce_Wine@dell.com

Sales Representative
Phillip Zimmerhanzel
Ext. 4-1906
E-Mail: Phillip_Zimmerhanzel@dell.com

Sales Representative:
Mark Byrd
Ext. 6-7884
E-Mail: Mark_Byrd@dell.com

Inside Sales Manager
Jennifer Smith
Ext. 3-0379
E-Mail: Jennifer_R_Smith@dell.com

Higher Education Account Team

Inside Phone: 800-274-7799
Inside Fax: 800-365-5329

Account Executive:
Champe Burnley
Phone: 804-358-5801
E-Mail: Champe_Burnley@dell.com

Sales Representative:
Ryan Stephens
Ext. 6-8236
E-Mail: Ryan_Stephens@dell.com

Inside Sales Manager:
Robyn Nunis
Ext. 3-7071
E-Mail: Robyn_Nunis@dell.com

K-12 Education Account Team:

Inside Phone: 888-977-3355
Inside Fax: 888-820-7454

Account Executive:
Scott Willett
Phone: 757-430-0565
E-Mail: Scott_Willett@dell.com

Inside Sales Representative:
Jason Warner
Ext. 6-2098
E-Mail: Jason_Warner@dell.com

Inside Sales Manager
Lisha Scott
Ext. 4-9126
E-Mail: Lisha_Scott@dell.com

Dell Desktops

Base Configuration:

Network Optimized
Processor:
Chassis
CPU Speed:
Cache:
Memory:
Keyboard:
Monitors:
Video Board:
Boot Hard Drive:
Floppy Drive:
Operating System:
Mouse:
Network Adapters (NICs):
1st Removable Media:
1st Removable Speed
I/O Ports
PCI Slots
Audio Solutions:
Speakers:

GX 260

Desktop Configuration 1	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade	Optiplex
Intel® Celeron®	YES
Tower	Tower
1.80GHz	1.8Ghz
128K	128k
256MB DDR Non-ECC SDRAM, 1 DIMMS	256 1 dimm
PS/2 Keyboard, No Hot Keys	Ps2 Keyboard
17 inch CRT color monitor (16.0 viewable)	E772p monitor
Integrated Video	Int Video
20GB EIDE 7200RPM	20Gb 7200
1.44MB 3.5 Inch Floppy Drive	3.5 Floppy
Windows® XP	XP Pro
PS/2 2 button mouse	Ps2 Button
10/100 Ethernet	Int 10/100
CD-ROM	CDROM
24x	48x
Min of 4, with 2 in front on remainder in the back	6usb (2)front (4) back
Min of 1 open	YES
Embedded Sound Blaster	Integrated
Internal or External Audio Speaker	Internal speaker

GX 60

Desktop Configuration 2	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade	Optiplex
Pentium® 4 Processor	YES
Tower	Tower
2.20GHz, 533FSB	2.26 P4
256K	256k
256MB DDR Non-ECC SDRAM, 1 DIMMS	256 1 dimm
PS/2 Keyboard, No Hot Keys	Ps2 Keyboard
17 inch CRT color monitor (16.0 viewable)	E772p monitor
Integrated Video	Int Video
40GB EIDE 7200RPM	40GB 7200
1.44MB 3.5 Inch Floppy Drive	3.5 Floppy
Windows® XP	Xp Pro
PS/2 2-Button Mouse	Ps2 Button
10/100 Ethernet	Int 10/100
CD-ROM	CDROM
24x	48x
Min of 4, with 2 in front on remainder in the back	6usb (2)front (4) back
Min of 1 open	YES
Embedded Sound	Integrated
Internal or External Audio Speaker	Internal speaker

Table 1
Attachment "A"
Contract VA-030801-DELL

Documentation:	Resource CD contains		Resource	Resources CD contains		Resource CD
Energy Star Label:	Energy Star Label		YES	Energy Star Label		YES
Warranty	3Yr Parts + Onsite Labor (Next Business Day)		3yr onsite Next Day	3Yr Parts + Onsite Labor (Next Business Day)		3yr onsite Next Day
OEM	Dell			Dell		
Model #	GX 260			GX 260		
Reference	Dell			Dell		
	Retail			Retail		
Discount	25.0%			25.0%		

Table 1-2

Table 1 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Desktops

GX 260

Base Configuration:

Network Optimized
Processor:
Chassis
CPU Speed:
Cache:
Memory:
Keyboard:
Monitors:
Video Board:
Boot Hard Drive:
Floppy Drive:
Operating System:
Mouse:
Network Adapters (NICs):
1st Removable Media:
1st Removable Speed
I/O Ports
PCI Slots
Audio Solutions:
Speakers:
Documentation:
Energy Star Label:
Warranty

Desktop Configuration 3	
Minimum Requirements	Offeror Proposed Specs
Business Network Grade	Optiplex
Pentium® 4 Processor	Yes
Tower	Tower
2.53GHz, 533FSB	2.53
512K Cache	512k
512MB DDR Non-ECC SDRAM, 1 DIMMs	512MB DDR Non-ECC SDRAM
PS/2 Keyboard, No Hot	PS2 keyboard
17 inch CRT color monitor	E772P
Integrated Video	Int video
80GB EIDE 7200RPM	80Gb 7200
1.44MB 3.5 Inch Floppy Drive	3.5 floppy
Windows® XP Professional Version with CD	XP Pro
PS/2 2-Button Mouse	Ps2 mouse
10/100 Ethernet	IN 10/100
CD-RW	CD-RW
24x	48x
Min of 4, with 2 in front on remainder in the back	6 usb 2 front 4 back
Min of 1 open	Yes
Embedded Sound Blaster Compatible	Int sound
Internal or External Audio Speaker	Internal Speaker
Resources CD contains Diagnostics and Driver	Resource CD
Energy Star Label	Yes
3Yr Parts + Onsite Labor (Next Business Day)	3 yr onsite next day

Oem
Model #
Reference

Dell
GX 260
Dell
Retail
\$ 1,273
25.0%

Discount

Dell Servers

Options Discount off Index 25.00%

List of Available Options are as follows:

Upgrade Options

Change to Requirements Shown Above

Upgrade to Pentium Processor (Specify Below)

Specify Here

Upgrade 1 Processor Speed (Specify Below)

Specify Here

Change to Small Form Factor

Change to Desktop

No Monitor Option

Upgrade to 19" CRT Monitor

Upgrade to 21" CRT Monitor

Upgrade to 15" LCD Monitor

Upgrade to 17" LCD Monitor

Upgrade to 19" LCD Monitor

Upgrade to 20" LCD Monitor

Upgrade to 384MB RAM

Upgrade to 512MB RAM

Upgrade to 640MB RAM

Upgrade to 768MB RAM

Upgrade to 1.0GB RAM

Upgrade to 1.5GB RAM

Add 56K Modem

Replace mouse with MS Intellimouse

Upgrade to 30GB Hard Drive

Upgrade to 40GB Hard Drive

Upgrade to 80GB Hard Drive

Change from Windows XP to Windows 2000

Upgrade
to CDRW
Drive

Upgrade
to DVD
Drive

Upgrade
to
DVD/CDR
W Drive

Add separate 32MB Graphics Accelerator Card

Add separate 64MB Graphics Accelerator Card

Upgrade to 10/100/1000 Card

Upgrade to External Speakers

Add UPS

Upgrade warranty to 4hr Response Time, M-F 8am-6pm

Extend warranty to 4 years

Extend warranty to 5 years

Upgrade to Performance USB Keyboard

Table 1 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Add Mouse Pad
Add Wireless Card

Table 2
Attachment "A"
Contract VA-030801-DELL

**Dell Notebooks
Configuration 1**

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options :
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

C540

Business Grade, Network Optimized	C540
Mobile Celeron™ Processor	Processor
1.60GHz	1.7 Ghz
256K	Yes
256MB SDRAM, 1 DIMMS	256MB SDRAM, 1 DIMMS
20GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	
Yes, Modular or Fixed	Yes
CD-ROM Drive	Yes
24X	Yes
14.1in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next	Yes
No Carrying Case	Yes
	5.8 lbs

OEM
Model
Reference
Discount

Dell
C540
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 2

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

OEM
Model
Reference
Discount

C640	
Business Grade, Network Optimized	C640
Mobile Pentium® 4 Processor M	Mobile Pentium® 4 Processor M
2.0GHz-M	2.0 GHz
256K	Yes
256MB DDR SDRAM, 1 DIMMS	Yes
20GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	Yes
Yes, Modular or Fixed	Yes
CD-ROM Drive	Yes
24X	14" XGA
14.1in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next Business Day)	Yes
No Carrying Case	5.8 lbs
Please Specify	
Please Specify	

Dell
C640
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 3

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

OEM
Model
Reference
Discount

C840	
Business Grade, Network Optimized	C840
Mobile Pentium® 4 Processor M	Pentium® 4
2.2GHz-M	2.2
512K	Yes
512MB, SDRAM, 1 DIMMS	Yes
30GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
None	Yes
Yes, Modular or Fixed	Yes
CD-RW Drive	Yes
24X	15" ULTRA
15.0in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next	Yes
No Carrying Case	7.7 lbs

Dell
C840
Dell Retail List
16.0%

Table 2 (Cont.)
Attachment "A"
Contract VA-030801-DELL

Dell Notebooks
Configuration 4

Laptop Type
Processor
CPU Speed
Cache
Memory:
Hard Drive:
Dedicated Video Memory
Operating System:
Modem:
Network Card
Wireless Communications
Floppy Disk Drive (Yes/No, fixed/modular etc.)
Fixed Optical Device Options
Fixed Optical Device Speed
Display:
Battery Type
Minimum Battery Life
Warranty
Carrying Case
Weight in lbs
Other

D600

Business Grade, Network Optimized	D600
Intel Pentium M	Yes
1.4 GHz	Yes
1MB	Yes
512MB, SDRAM, 1 DIMMS	Yes
30GB Hard Drive, 5400 RPM	Yes
None	Yes
Windows® XP Professional Version with	Yes
Internal 56K Modem	Yes
10/100 Ethernet Connector	Yes
Integrated 802.11b Wireless	Yes
Yes, Modular or Fixed	Yes
CD-RW Drive	Yes
24X	Yes
14.0in XGA Display	Yes
Lithium-Ion	Yes
3hrs	Yes
3Yr Parts + Onsite Labor (Next Business	Yes
No Carrying Case	Yes
	4.7-5.3 lbs

OEM
Model
Reference
Discount

Dell
D600
Dell Retail List
16.0%

Dell Options Pricing

Discount

16.00%

Upgrade Options

Change to Requirements Shown Above
Upgrade to Pentium Processor (<i>Specify Below</i>)
<i>Specify Here</i>
Upgrade 1 Processor Speed (<i>Specify Below</i>)
<i>Specify Here</i>
Upgrade to 384MB RAM
Upgrade to 512MB RAM
Upgrade to 768MB RAM
Upgrade to 1024MB RAM
Add 17" CRT Monitor
Add 19" CRT Monitor
Add 21" CRT Monitor
Upgrade to 30GB Harddrive
Upgrade to 40GB Harddrive
Upgrade to 60GB Harddrive
Upgrade to 802.11b Wireless LAN Card
Upgrade to 802.11b Integrated Wireless
Upgrade to CD-RW Drive
Upgrade to DVD Drive
Upgrade to DVD/CDRW Drive
Add Port Replicator
Add Docking Station
Upgrade to SXGA Display
Additional Battery (same specs as the one in base config)
Change from Windows XP to Windows 2000
Add Nylon Carrying Case
Add Leather Carrying Case
Extend warranty to 4 years
Extend standard warranty to 5 years
Upgrade Warranty 4hr Response Time, M-F 8am-6pm
Add Keyboard
Add Mouse
Add Mouse Pad
Add External Speakers

Table 3
Attachment "A"
Contract VA-030801-DELL

Dell Off-Spec Pricing

Example	OEM	Product Category	Index Used	Discount off Index (%)		Comments
	ABC Computer	Desktop, Product Line A	Web-price	59%	80%	
	Dell	Category A	Retail	8.5%	8.5%	See Word document for description
	Dell	Category H	Retail	4%	4%	See Word document for description
	Dell	Category O	Retail	same as base system	same as base	See Word document for description
	Dell	Category R	Retail	same as base system	same as base	See Word document for description
	Dell	Category S	Retail	2%	2%	See Word document for description
	Dell	Category W	Retail	2%	2%	See Word document for description
	Dell	Category X	Retail	0%	0%	See Word document for description
	Dell	Category Z	Retail	0%	0%	See Word document for description

Table 3-1

Table 4
Attachment "A"
Contract VA-030801-DELL

Dell Servers		PE 1650		PE 2650	
Base Configuration:		Server Configuration 1		Server Configuration 2	
Product Attribute		Minimum Requirements	Offeror Proposed Specs	Minimum Requirements	Offeror Proposed Specs
Number of U's		1	yes	2	yes
Chassis		Rack	yes	Rack	yes
Max # of Processors		2	yes	2	yes
Included # of Processors		1	yes	1	yes
Processor Speed		Intel Pentium III	yes	Intel Xeon, 1.8GHz	yes
L2 Cache size		512K	yes	512K	yes
Max Memory		4GB	yes	6GB	yes
Included Memory		512MB	yes	1GB	yes
# Drive Bays		2	yes	3	yes
# Drives Included		2	yes	3	yes
Hard Disk Capacity per Drive (SCSI)		18GB	yes	36GB	yes
Hard Drive Speed		10K RPM	15K RPM	10K RPM	yes
Max Internal Capacity		438 GB	yes	438 GB	730
# Externally Accessible Bays		1	yes	2	yes
Primary Controller		RAID 0, Dual	yes	RAID 5, Dual Channel	yes
Network card		Dual on board NICs,	yes	Dual on board NICs,	yes
Fixed Optical Device		CD-ROM Drive	yes	CD-ROM Drive	yes
Optical Device Speed		24X	yes	24X	yes
Number of PCI Slots		2 Total	yes	3-4 Total	yes
Remote Mgmt Card		Yes, included	yes	Yes, included	yes
Operating System		None	yes	None	yes
Deployment Rails		Included	yes	Included	yes
Warranty		3 YR Parts & Labor,	yes	3 YR Parts & Labor,	yes
OEM		Dell		Dell	
Model #		PE 1650		PE 2650	
SKU #		165113		265180	
		Dell Retail List		Dell Retail List	
Discount		25.0%		25.0%	

Table 4-1

Dell Servers

PE 6650

Base Configuration:

Product Attribute
Number of U's
Chassis
Max # of Processors
Included # of Processors
Processor Speed
L2 Cache size
Max Memory
Included Memory
Drive Bays
Drives Included
Hard Disk Capacity per Drive (SCSI)
Hard Drive Speed
Max Internal Capacity
Externally Accessible Bays
Primary Controller
Network card
Fixed Optical Device
Optical Device Speed
Number of PCI Slots
Remote Mgmt Card
Operating System
Deployment Rails
Warranty

OEM
Model #
SKU #

Discount

Server Configuration 3	
Minimum Requirements	Offeror Proposed Specs
4	yes
Rack	yes
4	yes
1	yes
Intel Xeon, 1.8GHz	Xeon 1.8GHz
1MB	yes
10GB	32GB
2GB	yes
4	yes
4	yes
36GB	yes
10K RPM	yes
584 GB	730 GB
2	yes
RAID 5, Dual Channel	yes
Dual on board NICs, at least one with	yes
CD-ROM Drive	yes
24X	yes
6 Total	8
Yes, included	yes
None	yes
Included	yes
3 YR Parts & Labor,	yes

Dell

PE 6650

665191

Dell Retail List

25.0%

Options Discount off Index

25.00%

List of Available Options are as follows:

Upgrade Options

Change to Requirements Shown Above
Change from rack to tower chassis
2nd Processor Option Kit - Same Speed
Upgrade to 1GB RAM
Upgrade to 1.5GB RAM
Upgrade to 2GB RAM
Upgrade to 3GB RAM
Upgrade to 6GB RAM
Increase each disk capacity to 36GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 73GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 146GB, 10K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each drive speed to 15K RPM (quote pricing for ALL disks)
Increase each disk capacity to 36GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 73GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Increase each disk capacity to 146GB, 15K RPM, SCSCI Hot Plug (quote pricing for ALL disks)
Remove Deployment Rails
Internal DLT Tape Drive (40 GB/80 GB)
External SDLT Tape Drive (110 GB/220 GB)
Add CDRW Drive
Add DVD Drive
Add DVD/CDRW Drive
Gigabit Network Connection
Monitor Media and Documentation
Linux Option
Upgrade Warranty 4hr Response Time, M-F 8am-6pm
Upgrade Warranty to 4hr Response Time, 7x24
Add Win 2000 Server OS
Remove Remote Management Card
Upgrade from SCSI to Fibre Channel
Add Redundant AC Power
Add UPS

Table 5
Attachment "A"
Contract VA-030801-DELL

DELL

Service	Desktop	Laptop	Server
Imaging (copying of system config from a master to other machines)	\$67.00	\$67.00	\$67.00
Asset Tagging	\$12.00	\$12.00	\$12.00
Deployment/Installation	Pricing varies with type and quantity of system, Statement of Work, and number of locations.	Pricing varies with type and quantity of system, Statement of Work, and number of locations.	Pricing varies with type and quantity of system, Statement of Work, and number of locations.
Data Transfer (from retired machine to new unit)	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.	Pricing varies with type and quantity of system, Statement of Work, and number of locations and amount of data.

1. Pricing for standard Deployment/Installation and Standard data transfer are listed on Dell's retail price list.
2. Dell can also provide custom pricing based upon custom services outside the standard services.
3. Minimum of 50 units for desktops and laptops and 20 units for servers for Imaging and Asset Tagging
4. Commonwealth agrees that it currently acquires these services under Dell's standard terms and conditions for services and that said terms and conditions shall continue to apply.

Table 5-1

Dell's Premier Access -- Self-Maintainer Program

The Dell Premier Access Program is a service and support program designed specifically for IS professionals who have technical expertise in diagnosing and servicing computer systems. With benefits like fast access to service and service part dispatches, and direct access to advanced level technical support, the Premier Access Program helps provide the knowledge, tools, and services necessary to efficiently maintain Dell® OptiPlex, Dell Dimension, Latitude, PowerEdge, and Workstation systems.

Tier 1 and Tier 2 Overview

Premier Access Tier 1 and Tier 2 benefits are exclusively for Premier Access (PA) enrolled customer's whose service professionals certify on each of the product families serviced. Once PA Certified, Tier 1 professionals have fast access to service or service part dispatches without extended troubleshooting procedures, as well as direct access to advanced level technical support. Premier Access Tier 2 professionals receive all the benefits of the Tier 1 Program, plus extra advantages such as Labor Reimbursements and Parts Management Assistance in the form of Spare Part Discounts and Part Lists. All of these features help to lower total maintenance costs.

Premier Access Tier 1 Advantages and Features

- **Direct routing to Advanced Level Technical Support** - The Dell Premier Access Program provides a dedicated phone queue and online services for quickly requesting service or service parts. Inquiries are routed directly to our part specialists who will process part orders and ship the part or to an Advanced Level technician for extended troubleshooting. Online services allow for fast and efficient means to order warranty parts, spare parts and check the status of any order.
- **Service parts and / or service dispatch without extended troubleshooting.** - Once the system problem has been diagnosed, service or service parts can be quickly requested via the Premier Access Website or the Premier Access Hotline.
- **TECH ID and PIN** - A unique Technician Identification Number (Tech ID) and Personal Identification Number (PIN) is generated for certified technician associated with a company enrollment. Non-technical logistics or administrative personnel who are listed as Authorized Purchasers on the PA Enrollment Application will receive complimentary Logistics ID's on a limited basis in line with the number of certified technicians. These ID's hold unique profiles of each Premier Access member allowing for enhanced call routing, ensuring you speak with the right person and spend the least amount of time on the telephone.
- **Dell Technical Support Assistant CD-ROM.** - One copy of the latest release of the Dell Technical Support Assistant CD-ROM will be distributed with each Premier Access Certification purchase. The Dell Technical Support Assistant CD-ROM is a valuable, user-friendly technical reference designed to provide fast access to system specific data for Dell systems. The CD-ROM contains system specifications, service manuals, system part guides, and specifications for peripherals, drivers and utilities. The information contained on the CD-ROM is the same basic information used everyday by Dell's Technical Support Staff.

Premier Access Tier 2 Advantages and Features

All the benefits of the Premier Access TIER 1 Program, ***plus***:

- **Labor Reimbursements** - Reimbursement fees are \$50.00 per qualified incident for Dell desktops, notebooks, workstations and printers and \$65.00 per qualified incident for servers. As monitors are classified as customer replaceable items, there is no reimbursement unless an extended MKM (Monitor, Keyboard, Mouse) warranty on the unit is purchased. If the MKM warranty is purchased, the reimbursement rate for monitors per qualified incident would be \$50.00. Hard drives and memory on desktop and laptop systems are reimbursed at \$50.00 and Servers at \$65.00 per qualified incident
- **Parts Management Assistance**
- **Parts Lists**
- **Spare Parts Discounts** - The 5% discount on service parts is part of the Tier II program. When they are issued the special Premier Access customer #, that customer # has a 5% discount attached to it when spare parts are purchased.

Fees:

- The annual fee for Tier 1 is \$179.00 per technician to be certified on Dell equipment. There is no agency, university or department fee.
- The annual fee for Tier 2 is \$1,500.00 for each agency, university or department who is to receive labor reimbursement.
- As this program is to customers who utilize their on-site technicians, travel reimbursement is not applicable.
- The renewal fee is an annual rate of \$179.00 per technician for Tier I, and \$1,500.00 for Tier II.



Premier Access Program Application Instruction Sheet

INSTRUCTION SHEET AND CUSTOMER CHECKLIST – RETAIN FOR YOUR FILES

This application must be completed in full. **Incomplete applications will not be processed.** Completion of this application does not imply that your company has been accepted in the Dell Premier Access Program.

To ensure prompt processing of your application, please use the following checklist to ensure your application is complete and accurate.

Complete Sections Required

_____ **Section I** – Information related to the End User/ Owner of the systems. *To be completed by the company who owns the Dell systems; self-maintainers must complete this section.*

_____ **Section II** – Service Provider information. *To be completed by the company providing repair service (self-maintenance or appointed provider).*

_____ **Part A** - General company information.

_____ **Part B** – Select the services that your company will be providing for the company listed in Section I.

Self-Maintenance – Owner of systems provides repair service. *Must complete application and sign as “Service Provider”.*

Self-Maintenance Help Desk Support – Owner of systems troubleshoots with users to diagnose system problem, then calls Dell to request on-site technician to perform repair service. *Must complete application and sign as “Service Provider”.*

Customer Appointed Service Provider (CASP) – End User designates a third party company to perform diagnosis and repair service.

CASP Help Desk Support - End User designates a Third Party Company to perform diagnosis with individual users, then contacts Dell to request on-site technician to perform repair service.

Campus Computing Center – Please request specialized form from Premier Access Program Advisor -- 800-433-9509.

_____ **Part C** – Indicate the industries or markets currently serviced by your company.

_____ **Part D** - Indicate the level of participation in Premier Access. Tier 1 allows for parts dispatch through online services or dedicated phone queue. Tier 2 provides all of Tier 1 benefits plus warranty labor reimbursements (\$1500 annual enrollment fee). Please see website for complete details: www.dell.com/support/technical/premier

_____ **Part E** – Indicate Purchase Order that will be referenced at the time of warranty parts requests.

_____ **Part F** – Provide address and contact for warranty parts invoicing.

_____ **Section III** – Two types of certification are available, Dell Certified Systems Expert (hands on training) and Online Certification (no training, only testing). Upon application approval, a method of certification must be purchased to complete the enrollment process.

_____ **Section IV** – Designation of authorized purchasers; personnel authorized by your company to request warranty parts. *Certification alone does not authorize a technician to order warranty parts through Premier Access.*

_____ **Page 8** – Signatures required by:

_____ End User Signature _____ Service Provider Signature _____ Leasing Company Signature (if applicable)

Contact your Program Advisor if you require assistance completing this application (800-433-9509).

Premier Access Program Application



REMINDER: INCOMPLETE APPLICATIONS WILL NOT BE PROCESSED

Section I – Dell Customer Information

A. Dell Customer Contact Information (Owner/End User requesting service and support):

Company Name: _____

Departments &/or subsidiaries to be included: _____

Dell Customer # _____

If you do not know your customer number(s), provide a System Tag #(5 digits): _____

Company Address: _____

City: _____ State: _____ Zip/Postal Code: _____

Contact Name: _____ Contact Title/Position _____

Phone: (____) _____ FAX: (____) _____ Email Address: _____

B. Do you buy your systems direct from Dell? Yes _____ No _____ (If No, complete information below)

Leasing Company (*sign on p.8*) _____ Reseller _____

Other (or additional leasing/reseller co's) _____

If applicable: Contact name for leasing/reseller: _____

If applicable: Email address for leasing/reseller: _____

If necessary, attach additional sheet for multiple leasing companies/resellers

C. Approximate Number of Dell systems to be serviced _____

D. Would you like to: (check one)

_____ **Service your own systems** (Self-Maintainer must complete Section II, B-F)

_____ **Appoint a Service Provider** (Appointed Provider must complete Section II)

If appointing a Service Provider, do you want Dell to pay warranty reimbursements to the Provider? Yes _____ No _____

Section II – Service Provider / Self Maintainer Information

Service Provider- Company/Organization providing service and support on Dell systems.

A. Service Provider / Self Maintainer Company Contact Information:

Company Name: _____ Dell Customer # _____

Company Address: _____

City: _____ State: _____ Zip/Postal Code: _____

Contact Name: _____ Contact Title/Position _____

Email: _____ Phone: (____) _____ FAX: (____) _____

Premier Access Program Application



B. Select all the services to be provided by your company for customer in Section I: (check one)

☐ Self-Maintenance ☐ Help Desk Support ☐ Customer Appointed Svc Provider (CASP)
☐ CASP Help Desk Support ☐ Other (specify) _____

C. Select the specific Industries or Markets your Company/Organization currently services: (Check all that apply)

Corporate/Commercial Businesses (400 + employees) _____

Education: ☐ K-12 ☐ Higher Education

Government: ☐ Local ☐ State ☐ Federal

Other: (Please specify) _____

D. Select type of Premier Access Program Service Level:

☐ **Tier 1** (Parts or service dispatch through dedicated phone queue and/or online services)

☐ **Tier 2** (All of Tier 1, plus warranty labor reimbursements - \$ 1500 annual fee)

☐ Initial here that you have read and understand the guidelines for submitting and receiving reimbursements from Dell. **Failure to initial and read guidelines will delay Tier 2 application approval. See www.dell.com/support/technical/premier for details.**

Tier 2 applicants: Complete and attach a **W-9 form** with this application. Also, specify the mailing address for reports and reimbursement checks (If different than address in Section II, A)

Contact Name: _____ Title: _____

Email: _____ Phone: _____ Fax: _____

Address: _____ City: _____ State: _____ Zip Code: _____

E. Warranty Replacement Parts (Service Parts) Invoicing:

An invoice is generated for each warranty replacement service part shipped. Authorized Personnel from your company will be required to supply a reference number or purchase order, (PO) number, at the time a warranty part is requested. Please specify the number below. This number will be referenced on all Dell invoices and packing slips. **All parts requests are subject to the Premier Access Program Agreement.**

Required (complete either a. or b.):

a. Blanket Reference Number or Purchase Order (up to 18 digits): _____

b. ☐ Check here if a different reference number will be given at time of part request in lieu of a Blanket PO (Unique PO provided at time of request).

F. Address for Warranty Replacement Part Invoices (If different from address in Section II A):

Address: _____ ATTN: _____

City: _____ State: _____ Zip/Postal Code: _____

Premier Access Program Application



Section III – PA Certified Technicians

A. Choose method of technician certification:

- _____ Check here if you would like **Dell Certified Systems Expert** (hands on training).
Call 1-800-433-9509 Ext: 80228 for quote.
- _____ Check here if you would like **Online Certification** (testing only, no training).
Pricing is currently \$179.00 per technician for all product families.

B. List the names of the technicians who will be performing service on Dell products.

To purchase Online Certification(s), enter "Y" in the "Online Cert Purchase" field.

If "Y" is indicated, the payment information supplied on this form will be used to place an order upon receipt of this application. After the order has been processed, technicians will be sent an email with their Tech ID and testing instructions. (Attach additional names to application).

Technician Name	Email Address	Online Cert Purchase

C. Calculate total for enrollment related purchases:

Certifications: \$179.00 X _____ = _____
(Per tech) (Qty of tech's) (Min 2 techs per service location)

Tier 2 Only:

Annual Enrollment Fee: \$1500.00 X _____ = _____
(Per remit to location)

Provide method of payment if requesting order fulfillment:

_____ Purchase Order (Hard copy of purchase order must accompany this application)

_____ MasterCard _____ Visa _____ Discover _____ American Express (4 digit code _____)

Card #: _____ Expiration Date: _____

Name as it appears on the Card: _____

Card Billing Address: _____

City: _____ ST: _____ ZIP: _____ Phone: (____) _____

INTERNAL USE ONLY

C# _____ Co# _____ SP Name: _____

State: _____ Date to OP: _____ O# _____ Ord Date: _____



Section IV – Authorized Personnel

List of Employees/Technicians Authorized by your company to request warranty parts

Important: Certification alone does not authorize a technician to order parts through the Premier Access Program. You must designate this authorization below. Non-technical personnel will be assigned a logistics ID at no charge based on a ratio of 1 logistics ID per 2 technicians up to 10 technicians, then 1:10.

Authorized Purchaser Name	Tech ID (if applicable)	Email Address

Review PA Agreement (p. 6- 8) and provide required Signatures (p.8)



PLEASE READ THE FOLLOWING PREMIER ACCESS PROGRAM AGREEMENT
PLEASE TAKE THE TIME TO READ THE FOLLOWING TERMS AND CONDITIONS UNDER WHICH DELL MARKETING L.P. ("DELL") AGREES TO OFFER ITS PREMIER ACCESS PROGRAM ("PROGRAM") TO YOU ("SERVICE PROVIDER"). THIS PREMIER ACCESS PROGRAM AGREEMENT ("AGREEMENT") GOVERNS SERVICE PROVIDER'S PARTICIPATION UNDER THE PROGRAM.

In consideration of the promises set forth below, the parties agree on the following:

I. END USER RESPONSIBILITIES

Except to the extent that the Service Provider is the End User and is designating themselves as a Help Desk or Self-Maintainer, End Users are not subject to the Terms and Conditions of the Premier Access Program Agreement ("Agreement"). By signing this Application, the End User (i) notifies Dell that the End User has selected a Service Provider other than Dell's Appointed Service Providers and (ii) not withstanding any Non-Disclosure Agreement between Dell and End User, authorizes Dell to release information regarding or related to the End User to the Service Provider necessary or convenient to carry out the purposes of this Agreement.

II. SERVICE PROVIDER RESPONSIBILITIES

Service Provider agrees to adhere to the following responsibilities and restrictions with respect to maintaining Dell-branded Products ("Products") under the Program.

1. Introduction. Service Provider agrees to (a) complete all required Program paperwork; (b) provide any information to Dell required under the Program in a timely manner; (c) pay all required Program fees; (d) maintain "current enrollment status" by renewing certification and applicable Program fees annually.
2. Certification of Service Provider Technicians. Service Provider technicians must be Dell Premier Access Certified for the Products they intend to service. Upon successful completion of the certification exam for a product classification, a technician will receive a "Dell Premier Access (PA) Certified Technician" certificate for that product classification. If an employee fails a test, the Service Provider agrees to purchase a Retest prior to the employee retaking the test. PA Technical Certification may not be transferred to another individual. Service Provider will ensure that its PA Certified Technicians keep current with updates and new maintenance information as Dell makes this information available. Service Provider agrees to have two PA Certified Technicians per service location.
3. Renewal. Each individual Certified Technician is required to renew his/her Certification on an annual basis. Tier 2 members are required to keep annual enrollment fee current.
4. On-site First Level Diagnosis. Service Provider will ensure that Products are only maintained by PA Certified Technicians certified for the product line being serviced. In the event of a failure of a Product covered under an appropriate service contract, a PA Certified Technician will perform first level diagnosis on-site of the problem and pre-determine the parts required to repair the Product. The results of this diagnosis, and predetermined parts requests, will be communicated by the PA Certified Technician to the appropriate Dell employed Technical Support Technician.
5. Dell Troubleshooting. If initial diagnosis and part(s) replacement by the Premier Access Certified Technician does not restore the failed Product to working condition, Dell reserves the right to require troubleshooting steps to be performed with a Dell employed Technical Support Technician before a second part(s) dispatch will be approved.
6. Accurate First-Time Diagnosis. Service Providers PA Certified Technicians are expected to maintain service levels',

including accurate first-time diagnosis that is *comparable* to that of Dell's Service Providers (DSP). Dell reserves the right to notify the End User customers and/or terminate the Service Provider's Premier Access enrollment if the Service Provider's service and correct diagnosis levels are consistently below those of the DSPs (Dell Service Providers).

7. Authorized Purchasers. Only personnel designated by the Service Provider may request warranty parts replacements through Dell's PA Program. PA Certification does NOT denote authorization to order replacement parts. Authorized Purchasers shall be designated by an authorized agent of the Service Provider and submitted with the PA Enrollment Form. Enrollment is not complete until the Authorized Purchasers list has been received and approved by Dell.

8. Service Provider. A Service Provider may participate in the Program only for the limited purpose of supporting Dell end-user customers who request the Service Providers to service their Products, or if Service Provider is acting as a Self Maintainer. Dell end-user must be a Dell Relationship, Public, or Americas International customer. The Program is not available to support small business or individual consumer accounts.

9. Service Identification Restrictions. Service Provider shall not identify itself as a Dell Service Provider or as any other type of authorized service center or authorized service representative of Dell. Service Provider acknowledges and agrees that this Agreement does not convey any rights or license to Service Provider to use any service mark, service name, trademark, trade name, logo, insignia, slogan, emblem, symbol, design or other identifying characteristic of Dell or Dell Computer Corporation in connection with the services provided hereunder, for itself, or to end user customers.

10. Export Regulations. Service Provider acknowledges and agrees that the products licensed or sold hereunder, which may include services, software or technology, are subject to the export control laws and regulations of the United States and other applicable countries. Service Provider shall abide by such laws and regulations and shall not, directly or indirectly, export, re-export or transship Products in violation of any such laws and regulations, including without limitation, the U.S. Export Administration Regulations, the Enhanced Proliferation Control Initiative (EPCI) Regulations, the Foreign Asset Control Regulations and any economic sanctions imposed by the United States Government upon any foreign country. Service Provider further represents and warrants that the Products will not be destined to (a) any restricted country or end-user, and (b) to any end-user engaged in restricted activities related to the proliferation of weapons of mass destruction.

11. Indemnity. Service Provider agrees to indemnify and hold Dell harmless from any and all damages, costs and expenses (including attorneys' fees and costs of court or settlement) arising out of or in connection with any claim by the End User or other third party arising out of the Service Provider's acts, omissions, misrepresentations, or breach of this Agreement, regardless of the form of action.

III. DELL RESPONSIBILITIES

Dell will support Service Provider's maintenance of Dell products by offering the following services.



1. Premier Access Program Support. Dell will assign Program telephone support for Service Provider during regular Dell business hours (8 a.m. - 5 p.m., CST, Monday - Friday).
2. Training. Dell will make training available to Service Provider at Dell's then current prices. All classroom training will take place in Austin, Texas or as mutually agreed upon by both parties. Dell will make certification materials available in electronic formats.
3. Technical Documentation. Dell will provide Online Technical Service Manuals. The Service Provider agrees to update all Technical Service Manuals as Dell provides updated information.
4. Technical Support. Dell will provide dedicated technical support to assist certified PA technicians: (a) telephone access to Dell technical support personnel (7 a.m. - 7 p.m. CST; Mon-Fri) (b) technical data through Dell's Internet World Wide Web Site (WWW) Site, File Transfer Protocol (FTP) TechFAX, and electronic bulletin board (BBS) and (c) other services as available.
5. Restrictions. Dell, or the original creator, retains all rights in the materials provided, including but not limited to copyright. None of the materials may be copied, reproduced or distributed by any means without the prior written permission of Dell or the copyright owner.
6. Labor Reimbursement. Dell will, at the request of the End User, reimburse Service Provider for the labor involved for a qualifying incident in accordance with labor reimbursement schedules provided and updated by Dell from time to time. Dell will reimburse Service Provider monthly in arrears. Service labor reimbursement is contingent upon the following:
 - (a) Service is provided on the internal devices of a Dell system (Internal devices are those that are accessed by removing the cover of the Dell system);
 - (b) Service Provider must have at least two PA Certified Technicians at all times per service location;
 - (c) The Product(s) must be covered by an On-Site Service contract;
 - (d) Service must be performed by a PA Certified Technician certified for the Product serviced;
 - (e) The Service Provider must be enrolled in the Dell Access Tier 2 Program and current on payment of all program fees;
 - (f) The Service Provider must return the defective part(s) within 15 days of the issuance of the service part(s) dispatch;
 - (g) The Service Provider must submit the Online Warranty Labor Reimbursement Request Form within 15 days of the issuance of the service part(s) dispatch; and
 - (h) The returned part must be non-functional.

IV. SERVICE PARTS (Warranty Replacement Parts)

"Service Parts" are replacement parts covered by a Dell on-site service contract.

1. Dell will attempt to provide replacement parts on an exchange basis with next business day delivery Service Provider must report each in-service contract repair to Dell technical support in advance and obtain Dell's authorization to return parts.
2. Service Parts are new or reconditioned, and are warranted for the remainder of the warranty term or service contract period of the Dell system in which the replacement part is installed. The type of labor coverage (parts-delivery, on-site, or return-to-Dell) is determined by the type of labor coverage for the system in which it is installed. Service Provider agrees to maintain records of servicing in sufficient detail to permit Dell to confirm that parts exchanged come from Products that are under an appropriate service contract.

V. PAYMENT

The part(s) replaced by the Service Part(s) must be returned within fifteen (15) days of part(s) shipment of the Service Part(s). If a part is not returned within 15 days of shipment of the Service Part(s), Service Provider agrees to pay for all Service Part(s) to include applicable taxes and shipping charges. If a payment due from Service Provider is late and not because it is disputed in good faith, Dell may refuse to ship parts or respond to technical and support inquiries until payment is made.

VI. TERM; TERMINATION

1. Term. Upon commencement, this Agreement shall remain in effect for a period of one year and automatically renew for successive one year periods thereafter as long as the End User designates the Service Provider to service their Products and as long as Service Provider maintains payment of all required Program fees and maintains annual re-certification of PA Certified Technicians performing service on Dell Products ("current enrollment status") unless terminated pursuant to the terms below.
2. Termination. Either party may terminate this Agreement for any or no reason at any time upon thirty (30) days written notice to the other. This Agreement will terminate immediately upon End User's termination of Service Provider's services.
3. Survival. All provisions which by their nature are intended to survive the termination of this Agreement shall survive.

VII. DEFAULT

In the event of the failure of either party to fulfill any obligation under this Agreement, the party requesting performance shall provide the non-performing written notice describing in detail the performance demanded and thirty (30) days to perform. If the non-performing party fails to perform such obligation within that time, the party requesting performance may, in addition to any other remedies available at law, not otherwise limited herein, terminate this Agreement.

VIII. WARRANTY EXCLUSION: LIMITATION OF REMEDIES AND LIABILITY

1. DELL MAKES NO WARRANTIES WITH RESPECT TO THE SERVICES HEREIN, EITHER EXPRESS OR IMPLIED, INCLUDING, BUT NOT LIMITED TO, ANY IMPLIED WARRANTIES OF MERCHANTABILITY AND FITNESS FOR A PARTICULAR PURPOSE. DELL EXPRESSLY DISCLAIMS ALL WARRANTIES EXCEPT FOR THE WARRANTIES EXPRESSLY STATED FOR SPARE PARTS.
2. DELL'S ENTIRE LIABILITY IN CONTRACT, TORT OR OTHERWISE, UNDER THIS SERVICE AGREEMENT IS THE PERFORMANCE OF THE SERVICES DESCRIBED HEREIN. IF DELL IS UNABLE TO PERFORM SUCH SERVICES, SERVICE PROVIDER'S ENTIRE REMEDY AND DELL'S ENTIRE LIABILITY WILL BE THE PAYMENT OF ACTUAL DAMAGES NOT TO EXCEED THE MONIES PAID BY SERVICE PROVIDER TO DELL UNDER THIS AGREEMENT.
3. SERVICE PROVIDER UNDERSTANDS AND AGREES THAT DELL IS NOT RESPONSIBLE FOR LOSS, DESTRUCTION OR DAMAGE TO SOFTWARE OR DATA EVEN IF IT OCCURS AS A CONSEQUENCE OF ADVICE OR SUGGESTIONS PROVIDED BY DELL PERSONNEL.
4. EXCEPT FOR THE OBLIGATIONS OF THE SERVICE PROVIDER ARISING OUT OF SECTION II.11, NEITHER PARTY HAS ANY LIABILITY TO THE OTHER FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY THIRD PARTY.



IX. MISCELLANEOUS

1. Service Provider may not assign this Agreement without Dell's prior written consent. Dell may assign this Agreement to any entity owned or controlled by Dell Computer Corporation, Dell's parent.
2. Dell and Service Provider are independent contractors. Neither party will state, imply nor knowingly permit anyone to infer that any other relationship exists between the parties.
3. Dell reserves the right to modify the terms and/or eligibility requirements applicable to the Premier Access Program at any time, or from time to time, or to terminate the Premier Access Program at any time at its discretion.
4. This Agreement shall be governed by Texas law.
5. If any provision of this Agreement is void or unenforceable, the parties agree to delete it and agree that the remainder of this Agreement will continue to be in effect.
6. This Agreement is the exclusive statement of the contract in effect between Dell and Service Provider with respect to the subject matter. No promise or amendment relating to the Agreement shall be binding unless it is in writing and signed by Dell.

Fax completed Application to:

**Attention: Program Specialist
Fax: (512) 283-2607**

I have read and agree to the terms and conditions stated in the Premier Access Program Agreement.

Dell Customer Name

(End User/Owner of Dell systems)

Dell Customer Signature

Printed Name

Title

Date

Leasing Company Signature (if applicable)

I have read and agree to the terms and conditions stated in the Premier Access Program Agreement.

Service Provider/Company Name

(Company providing service and support to Dell customer)

Service Provider/Company Signature

Printed Name

Title

Date

This report shows the overall spend each month by Agency/Institution/Municipality

[illegible]

System Level Report

ILLUSTRATIVE

This report provides the details of every system bought by each Agency/Institution/Municipality.

PO #	Order #	Contract #	Customer #	Customer Name	Agency/Institution/Municipality	Invoice Date	Order Date	Ordered through s/v/a?	Quantity	Product Line	Product Type	Index Used	Unit Index Price on Order Date (\$)	Extended Index Price on Order Date (\$)	Discount %	Unit Discounted Price on Order Date (\$)	Extended Discounted Price on Order Date (\$)
11188	222888	1808-5970			Supreme Court	022903	06/23/03	Y	1	Orange Y288	Desktop	Public Web Price	\$ 2,880.00	\$ 2,880.00	48%	\$ 1,456.00	\$ 1,456.00
11189	222889	1708-3990			DT	022903	06/23/03	Y	2	Lemon X118	Laptop	Public Web Price	\$ 3,000.00	\$ 6,000.00	53%	\$ 1,410.00	\$ 2,820.00
11190	222890	1808-5970			DT	022903	06/23/03	Y	2	Lemon Y200	Laptop	Public Web Price	\$ 2,500.00	\$ 5,000.00	38%	\$ 1,550.00	\$ 3,100.00

ATTACHMENT "C"
TO
RFP # 2003-040
THE VIRGINIA INFORMATION TECHNOLOGIES AGENCY
CERTIFICATION REGARDING LOBBYING

The undersigned certifies, to the best of his or her knowledge and belief, that:

- a. No Federal appropriated funds have been paid, by or on behalf of the undersigned, to any person for influencing or attempting to influence an officer or employee of an agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with the awarding of any Federal Contract, the making of any Federal grant, the making of any Federal loan, the entering into of any cooperative agreement, and the extension, continuation, renewal, amendment, or modification of any Federal Contract, grant, loan, or cooperative agreement.
- b. If any funds other than Federal appropriated funds have been paid or will be paid to any person for influencing or attempting to influence an officer or employee of any agency, a Member of Congress, an officer or employee of Congress, or an employee of a Member of Congress in connection with this Federal Contract, grant, loan, or cooperative agreement, the undersigned shall complete and submit standard Form-LLL, "Disclosure Form to Report Lobbying," in accordance with its instructions.
- c. The undersigned shall require that the language of this certification be included in the award documents for all sub-awards at all tiers (including subcontracts, sub-grants, and Contracts under grants, loans and cooperative agreements) and that all sub-recipients shall certify and disclose accordingly.

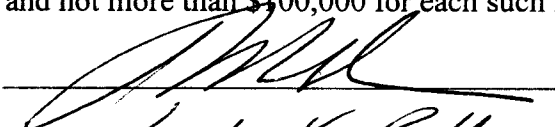
This certification is a material representation of fact upon which reliance was placed when this transaction was made or entered into. Submission of this certification is a prerequisite for making or entering into this transaction imposed by Section 1352, title 31, U.S. Code. Any person who fails to file the required certification shall be subject to a civil penalty of not less than \$10,000 and not more than \$100,000 for each such failure.

Signature: _____

Printed Name: _____

Organization: _____

Date: _____


Linda V. Reddy
Dell Marketing L.P.
8/15/03

Attachment "D"
Contract VA-030801-DELL
Terms of Sale for Personal Purchases

PLEASE READ THIS DOCUMENT CAREFULLY! IT CONTAINS VERY IMPORTANT INFORMATION ABOUT YOUR RIGHTS AND OBLIGATIONS, AS WELL AS LIMITATIONS AND EXCLUSIONS THAT MAY APPLY TO YOU. THIS DOCUMENT CONTAINS A DISPUTE RESOLUTION CLAUSE.

This Agreement contains the terms and conditions that apply to purchases by Home, Home Office, and Small Business customers from the Dell entity named on the invoice ("*Dell*") that will be provided to you ("*Customer*") on orders for computer systems and/or related products and/or services and support sold by Dell in the United States. By accepting delivery of the computer systems, other products and/or services and support described on that invoice, Customer agrees to be bound by and accepts these terms and conditions. If for any reason you are not satisfied with your Dell-branded hardware system, you may return the system under the terms and conditions of Dell's "Total Satisfaction Return Policy", which is located online at www.dell.com/us/en/gen/misc/policy_010_policy.htm or may be found in the documentation accompanying the system.

THESE TERMS AND CONDITIONS APPLY (I) UNLESS THE CUSTOMER HAS SIGNED A SEPARATE PURCHASE AGREEMENT WITH DELL, IN WHICH CASE THE SEPARATE AGREEMENT SHALL GOVERN; OR (II) UNLESS OTHER DELL STANDARD TERMS APPLY TO THE TRANSACTION.

These terms and conditions are subject to change without prior written notice at any time, in Dell's sole discretion.

1. **Other Documents.** Other than as specifically provided in any separate formal purchase agreement between Customer and Dell, these terms and conditions may NOT be altered, supplemented, or amended by the use of any other document(s). Any attempt to alter, supplement or amend this document or to enter an order for product(s) which is subject to additional or altered terms and conditions will be null and void, unless otherwise agreed to in a written agreement signed by both Customer and Dell.
2. **Governing Law. THIS AGREEMENT AND ANY SALES THEREUNDER SHALL BE GOVERNED BY THE LAWS OF THE STATE OF TEXAS, WITHOUT REGARD TO CONFLICTS OF LAWS RULES.**
3. **Payment Terms; Orders; Quotes; Interest.** Terms of payment are within Dell's sole discretion, and unless otherwise agreed to by Dell, payment must be received by Dell prior to Dell's acceptance of an order. Payment for the products and services and support may be made by credit card, wire transfer, or some other prearranged payment method unless Dell has agreed to credit terms. Invoices are due and payable within the time period noted on the reverse side of this invoice, measured from the date of the invoice. Dell may invoice parts of an order separately. Orders are not binding upon Dell until accepted by Dell. Any quotations given by Dell will be valid for the period stated on the quotation. Customer agrees to pay interest on all past-due sums at the highest rate allowed by law.
4. **Shipping Charges; Taxes.** Separate charges for shipping and handling will be shown on the invoice(s). Unless Customer provides Dell with a valid and correct tax exemption certificate applicable to the product ship-to location prior to Dell's acceptance of the order, the Customer is responsible for sales and all other taxes associated with the order, except for Dell's franchise taxes and taxes on Dell's net income. If applicable, a separate charge for taxes will be shown on the invoice.
5. **Title; Risk of Loss.** Title to products passes from Dell to Customer on shipment from Dell's facility. Loss or damage that occurs during shipping by a carrier selected by Dell is Dell's responsibility. Loss or damage that occurs during shipping by a carrier selected by

Attachment "D"
Contract VA-030801-DELL
Terms of Sale for Personal Purchases

Customer is Customer's responsibility. Title to software will remain with the applicable licensor(s).

6. **Warranties.** THE LIMITED WARRANTIES APPLICABLE TO DELL-BRANDED PRODUCTS ARE INCLUDED IN THE DOCUMENTATION PROVIDED WITH THE PRODUCTS AND CAN ALSO BE LOCATED ONLINE AT WWW.DELL.COM/US/EN/GEN/MISC/POLICY_010_POLICY.HTM. THERE ARE NO WARRANTIES FOR SERVICES. DELL MAKES NO EXPRESS WARRANTIES EXCEPT THOSE STATED IN DELL'S APPLICABLE WARRANTY STATEMENT IN EFFECT ON THE DATE OF THE INVOICE. ANY SUCH WARRANTIES WILL BE EFFECTIVE, AND DELL WILL BE OBLIGATED TO HONOR ANY SUCH WARRANTIES, ONLY UPON DELL'S RECEIPT OF PAYMENT IN FULL FOR THE ITEM TO BE WARRANTED.
7. **Software.** All software is provided subject to the license agreement that is part of the package. Customer agrees that it will be bound by the license agreement once the package is opened or its seal is broken. Dell does not warrant any software under this Agreement. Warranties, if any, for the software are contained in the license agreement that governs its purchase and use.
8. **Return Policies.** Dell-branded hardware systems and parts that are purchased directly from Dell by an end-user Customer may be returned by Customer in accordance with Dell's "Total Satisfaction Return Policy" in effect on the date of the invoice. Dell's "Total Satisfaction Return Policy" can be found at www.dell.com/us/en/gen/misc/policy_010_policy.htm or in the documentation provided with the Dell-branded systems.
9. **Exchanges.** From time to time, Dell may, in its sole discretion, exchange products or portions of a product. Any exchanges will be made in accordance with Dell's exchange policies in effect on the date of the exchange.
10. **Products.** Dell continually upgrades and revises its products and service offerings to provide Dell customers with new products and service offerings. Dell may revise and discontinue products at any time without prior notice to customers. Dell will ship products that have the functionality and performance of the products ordered, but changes between what is shipped and what is described in a specification sheet or catalog are possible. The parts and assemblies used in building Dell products are selected from new and equivalent-to-new parts and assemblies in accordance with industry practices. Spare parts may be new or reconditioned. The quoted Dell SKU numbers for Dell-branded hardware products are of the quantity specified by Dell and conform in all material respects with the Dell product specifications current on the date such products were shipped.
11. **Dell Software and Peripherals Products.** Any warranty and technical support provided on third-party products purchased through Dell's Software and Peripherals Division are provided by the original manufacturer and not by Dell. These products may be returned only in accordance with the return policy in effect on the date of invoice. The warranties and technical support may vary from product to product. Dell-branded products purchased through Dell's Software and Peripherals Division carry the same warranty terms as described in Section 6, Warranties, above. For Small and Medium Business Customers, all non-defective products purchased through Dell's Software and Peripherals Division that are returned to Dell are subject to a fifteen percent (15%) restocking fee. For more information on Dell's Software and Peripherals Division Warranty and Return Policies, see the applicable consumer or commercial segment Web page.
12. **Limitation of Liability.** DELL DOES NOT ACCEPT LIABILITY BEYOND THE REMEDIES SET FORTH HEREIN, INCLUDING ANY LIABILITY FOR PRODUCTS NOT BEING AVAILABLE FOR USE OR FOR LOST OR CORRUPTED DATA OR SOFTWARE, OR THE PROVISION OF SERVICES AND SUPPORT. DELL WILL NOT BE LIABLE FOR LOST PROFITS, LOSS OF BUSINESS OR OTHER CONSEQUENTIAL, SPECIAL, INDIRECT, OR PUNITIVE DAMAGES, EVEN IF ADVISED OF THE POSSIBILITY OF SUCH DAMAGES, OR FOR ANY CLAIM BY ANY

Attachment "D"

Contract VA-030801-DELL

Terms of Sale for Personal Purchases

THIRD PARTY EXCEPT AS EXPRESSLY PROVIDED HEREIN. CUSTOMER AGREES THAT FOR ANY LIABILITY RELATED TO THE PURCHASE OF PRODUCTS OR SERVICES BUNDLED WITH THE PRODUCTS, DELL IS NOT LIABLE OR RESPONSIBLE FOR ANY AMOUNT OF DAMAGES ABOVE THE AGGREGATE DOLLAR AMOUNT PAID BY CUSTOMER FOR THE PURCHASE OF PRODUCTS OR SERVICES UNDER THIS AGREEMENT.

13. **Binding Arbitration.** ANY CLAIM, DISPUTE, OR CONTROVERSY (WHETHER IN CONTRACT, TORT, OR OTHERWISE, WHETHER PREEXISTING, PRESENT OR FUTURE, AND INCLUDING STATUTORY, COMMON LAW, INTENTIONAL TORT AND EQUITABLE CLAIMS) AGAINST DELL, its agents, employees, successors, assigns or affiliates (collectively for purposes of this paragraph, "Dell") arising from or relating to this Agreement, its interpretation, or the breach, termination or validity thereof, the relationships which result from this Agreement (including, to the full extent permitted by applicable law, relationships with third parties who are not signatories to this Agreement), Dell's advertising, or any related purchase SHALL BE RESOLVED EXCLUSIVELY AND FINALLY BY BINDING ARBITRATION ADMINISTERED BY THE NATIONAL ARBITRATION FORUM (NAF) under its Code of Procedure then in effect (available via the Internet at <http://www.arb-forum.com> or via telephone at 1-800-474-2371). The arbitration will be limited solely to the dispute or controversy between Customer and Dell. Any award of the arbitrator(s) shall be final and binding on each of the parties, and may be entered as a judgment in any court of competent jurisdiction. Information may be obtained and claims may be filed with the NAF at P.O. Box 50191, Minneapolis, MN 55405.
14. **Applicable Law; Not For Resale or Export.** Customer agrees to comply with all applicable laws and regulations of the various states and of the United States. Customer agrees and represents that it is buying for its own internal use only, and not for resale or export. Dell has separate terms and conditions governing resales and transactions outside the United States.
15. **Service and Support.** Dell will provide general technical support to Customer in the United States, in accordance with the then-current technical support policies in effect. Service offerings may vary from product to product. If Customer purchased optional services and support, Dell and/or a third-party service provider will provide the optional service and support to Customer in the United States in accordance with the then-current terms and conditions in the optional service contract between Dell and/or the third-party service provider and Customer (available via the Internet on Dell's Web site at http://www.dell.com/us/en/gen/services/service_service_contracts.htm or by contacting one of the following numbers: Dell Home Systems Customer Care at 1-800-624-9897; Business Sales Division Customer Care at 1-877-773-3355 or 1-877-671-3355 or as mailed to Customer). Dell and/or the third-party service provider may, at their discretion, revise their general and optional service and support programs and the terms and conditions that govern them. The optional services and support programs and their terms and conditions in place at the time of purchase will apply to Customer's purchase. Dell has no obligation to provide service or support until Dell has received full payment for the product or service/support contract for which service or support is requested.
16. **Headings.** The section headings used herein are for convenience of reference only and do not form a part of these terms and conditions, and no construction or inference shall be derived therefrom.